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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x
3 UNITED STATES OF AMERICA,

4 v.

17 CR 684 (ER)

5 CHRISTIAN DAWKINS and MERL
6 CODE ,

7 Defendants.

Trial

-----x

8 New York, N.Y.

9 April 29, 2019

10 9:00 a.m.

11 Before:

12 HON. EDGARDO RAMOS

13 District Judge

14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the

17 Southern District of New York

18 ROBERT L. BOONE

19 NOAH D. SOLOWIEJCZYK

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21 Assistant United States Attorneys

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25 BY: DAVID A. CHANEY, JR.

-and-

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MARK C. MOORE

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(Trial resumed; jury not present)

THE COURT: OK. Folks, it's 9 o'clock. Are we waiting for Mr. Solowiejczyk?

MR. BOONE: We can begin, your Honor.

THE COURT: OK. This morning I awoke to a bounty. There were any number of emails from the parties. Let me ask, which of these have to be decided this morning?

MR. CHANEY: Your Honor, I think the government's request regarding statements made by -- some statements by Mr. Dawkins, some by Mr. Code that would be introduced through Mr. Sood I think would be appropriate for us to handle today.

MR. MOORE: I don't agree.

MR. CHANEY: I mean with respect to the calls that the government intends to introduce.

MR. HANEY: I would defer to the government. I don't know what they're going to put on and what order they're going to put it on. I have one issue, as the Court's aware, that one particular call.

MR. MOORE: I would say, for Mr. Code, I don't believe that Mr. Solowiejczyk's letter motion needs to be decided this morning. As I noted in my perhaps inadvertent email to the Court and then with a follow-up email, I believe that that issue should be resolved after Mr. Sood testifies. With respect to Ms. Tutwiler, her testimony, and the testimony of Mr. Mowery, we are not going to get to that until perhaps

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1 Wednesday, I would think, at the earliest. I don't know that
2 that needs to be decided either.

3 THE COURT: Mr. Solowiejczyk?

4 MR. SOLOWIEJCZYK: Your Honor, I apologize for being
5 tardy this morning.

6 Your Honor, we would respectfully request a ruling
7 from the Court before direct examination of Mr. Sood is
8 concluded because, if the Court actually does intend to allow
9 this stuff in, we'd like to ask Mr. Sood about it on direct,
10 understandably. I anticipate Mr. Sood's direct will probably
11 take, it's hard to be precise, but probably the entire day or
12 close to it. So we could go through most of it and then see
13 where we are, but the government does feel strongly that a
14 ruling is appropriate before his direct examination is
15 concluded.

16 THE COURT: Just so we're clear, we're talking about
17 the two transcripts that you attached to your letter, right? I
18 read the transcripts, but orient me. I don't know what's going
19 on with respect to those conversations.

20 MR. SOLOWIEJCZYK: So there's two different issues.
21 The recording that Mr. Code seeks to admit is a conversation, I
22 think -- I don't have the exact date in front of me -- early
23 August between Merl Code and Munish Sood. And they want to,
24 really, admit one portion of that conversation, and that
25 portion is Merl Code recounting for Mr. Sood a prior

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1 conversation that he purportedly had with Christian Dawkins in
2 which he said, in relevant part, that he basically told
3 Christian, Jeff, and those guys want to meet all these coaches:
4 OK. Great. Well, we can pay them. No, no, you're not paying
5 my guys.

6 The problem with that, your Honor, is that this is not
7 a forward-looking statement. Accordingly, it doesn't fall
8 under the state of mind exception. It's merely Mr. Code
9 recounting a supposed prior conversation that he had with
10 Christian Dawkins. And the defendants' ability to offer this
11 statement, as we briefed in the motions *in limine*, the state of
12 mind exception is a relatively narrow exception, and this does
13 not fall within it. So, respectfully, we do not think the
14 defense should be permitted to admit this portion of the
15 recording.

16 Then with respect to what Mr. Haney is trying to get
17 in for Dawkins, we're admitting most of that recording already.
18 There's a small portion at the end that Dawkins would like to
19 admit, and that relates to the discussion between Sood and
20 Dawkins there about a meeting that's yet to come that day with
21 a sports agent Raymond Brothers. And the pertinent quotes are
22 Mr. Dawkins saying -- I want to find the exact quote here. "He
23 can stay in the room and F'ing get stroked off some more."

24 THE COURT: I'm sorry. What page?

25 MR. SOLOWIEJCZYK: Of the transcript, I'm at page 6.

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1 This is Exhibit B. Line 9: "He can stay in this room and
2 F'ing get stroked off some more," and then Sood's response of
3 "Let's stroke him off a little more." Your Honor, this
4 pertains to a meeting with the sports agent Raymond Brothers.
5 It has nothing to do with the coaches. Really, it's just -- on
6 top of that, I mean, these comments really don't add any value.

7 To the extent, I read Mr. Haney's response briefly,
8 but he wants to get in the statements from Mr. Sood, "let's
9 stroke him off a little more," the coconspirator exception does
10 not apply when the defense seeks to offer statements. It only
11 applies when the government does. We're happy to send your
12 Honor a couple of cases on that. So we just don't think this
13 is relevant, and we also think it's hearsay.

14 THE COURT: When are these coming in relative to
15 Mr. Sood's testimony, if you know?

16 MR. SOLOWIEJCZYK: This call will come in probably by
17 the middle of the day, the second one. And the first call that
18 I referenced we're not seeking to admit at all, so we would
19 only admit it if your Honor says that the defense would be able
20 to.

21 THE COURT: OK.

22 MR. CHANEY: Your Honor, could I just factually put
23 Mr. Code's statements into context? I think the context is
24 really important. As it pertains to Mr. Solowiejczyk's
25 argument that it's rear-looking, it's sort of a recounting of a

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1 prior conversation between Mr. Code and Mr. Dawkins.

2 Mr. Code is speaking to Mr. Sood about another
3 gentleman, Seth, for really the entirety of that phone call.
4 And what he's saying is that this gentleman, Seth, doesn't know
5 what he's doing. He just wants to throw money at problems.
6 That's not the way you build relationships. That's not the way
7 you get loyalty. That's not the way you get things done.

8 THE COURT: Can you tell me who Seth is? I don't need
9 a last name, but what does Seth do?

10 MR. CHANEY: So Seth is another gentleman sort of in
11 this agency, financial space. What we know now that Mr. Code
12 didn't know in that phone call is Mr. Sood actually
13 owned Mr. Cohen's company. Mr. Code did not know that at the
14 time, but it's a business associate of Mr. Sood's that's a
15 mutual acquaintance of Mr. Code.

16 So Mr. Code and Mr. Sood are discussing Seth Cohen for
17 the large majority of this call. Mr. Code is saying that this
18 Seth Cohen gentleman doesn't understand how the business works.
19 And to illustrate a point that he's trying to make with
20 Mr. Sood with respect to Mr. Cohen, he says: "It's like the
21 conversation I had with Christian Dawkins where I said, 'Don't
22 pay my guys.' Jeff wants to pay my guys. I said, 'Don't pay
23 my guys.'"

24 So to the degree that that quote actually evinces for
25 the jury a present and then existing state of mind that

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1 Mr. Code then, as we argue throughout the entirety of this
2 case, he then was not of the opinion that paying coaches was an
3 appropriate business model, that he didn't have a specific
4 intent to do so, that he hadn't joined an agreement to do so.
5 So while the conversation with Mr. Dawkins certainly is from a
6 point in time previous to the comment, it still is direct
7 evidence of his then-existing state of mind insofar as he's
8 relying on to explain his state of mind at that time during the
9 phone call.

10 MR. MOORE: Your Honor, I'm going to pick up here on
11 the law for just a moment, if I may. The statement from
12 Mr. Code is, "I'm telling you, you're not paying my guys." The
13 government has introduced a transcript of a meeting in June of
14 2017, and they've used -- introduced certain portions of that
15 transcript and had Mr. Blazer, who had met Mr. Code that very
16 day, comment about Mr. Blazer's interpretations as to what
17 Mr. Code meant at various points with respect to that
18 conversation.

19 One of the points that I'm sure we're going to hear in
20 closing argument from the government is Mr. Code makes a
21 statement, which was discussed by Mr. Blazer and commented on
22 by Mr. Blazer, that you don't have -- that you don't pay
23 everyone now or you might not want to pay them now, but you pay
24 them later. Part of our defense is going to be that Mr. Code
25 is listening to people that he's just met. He's pitching them

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1 on a business opportunity. He is not going to completely
2 disagree with what they are saying, and he's not going to tell
3 them, for example, that day, in front of everyone in that room,
4 that their idea of paying coaches is stupid and no one does
5 that, frankly, if you're trying to get business from someone.

6 But I'm sure that the government is going to take the
7 position that Mr. Code had the intent that day and his intent
8 continued to pay coaches. Mr. Code is saying to Mr. Sood, one
9 of his alleged coconspirators, "you're not paying my guys."
10 That can be interpreted that you're not paying them now and
11 you're not paying them in the future, and that is not a
12 statement from someone who has knowingly, willfully, and
13 unlawfully joined a conspiracy with knowledge of its purpose.
14 It is a forward-looking statement. It is not a
15 backwards-looking statements. So it is admissible, we contend,
16 under the state of mind exception.

17 It's also arguably admissible, depending on what
18 Mr. Sood says on direct, as impeachment of Mr. Sood. It is
19 admissible, I believe, to show a statement by a party to an
20 alleged conspiracy to a conspirator that I am not down with, I
21 am not agreeing with your proposed plans to pay these coaches.

22 Finally, I believe it's admissible as under the
23 catchall exception of the hearsay rule because it has
24 circumstantial guarantees of trustworthiness. I put
25 Mr. Solowiejczyk on notice yesterday, or last evening after I

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1 got his letter motion, that I intended to rely on the catchall
2 exception to the hearsay rule. And I recall that we crossed
3 this river a little bit, but not nearly to this extent, in
4 Gatto. And I have read *DeMaria* and some of the other cases
5 that were mentioned in Mr. Solowiejczyk's memorandum, but I
6 reread them last night about 1 o'clock in the morning. One of
7 the things that I note about *DeMaria* and the other cases that
8 are cited in Mr. Solowiejczyk's memorandum is that the
9 admission of most of the statements at issue there had to deal
10 with postarrest statements made by a defendant, self-serving
11 postarrest statements. This is not a self-serving, postarrest
12 statement. This is a conversation that is recorded by the
13 government at the time it is made, and it bears circumstantial
14 guarantees of trustworthiness.

15 These conversations that Mr. Solowiejczyk says --
16 these purported conversations between Mr. Code and Mr. Dawkins,
17 they aren't purported conversations. They were intercepted by
18 the government. The government may not want to introduce most
19 of them, but we will seek to introduce them in the defense
20 case. And we would respectfully request that we have the
21 opportunity to play these calls during Mr. Sood's
22 cross-examination. If your Honor decides not to allow us to
23 play those calls, then we may seek to offer them in the defense
24 case in chief.

25 But with respect to the circumstantial guarantees of

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1 trustworthiness, if you look at the rule, Judge, and one of the
2 things I would note *DeMaria* talks about the, I guess,
3 exceptions to the hearsay rules in 803, and it also talks about
4 the catchall exception. At the time *DeMaria* was decided, and I
5 am old enough to remember when the catchall exception was not
6 in Rule 807, but it was codified in Rule 803(24) and 804(b)(5),
7 declarant available, declarant nonavailable, it talks about --
8 the Court in *DeMaria* talks about the catchall exception of the
9 hearsay rules and talks about, to an extent, the reasons behind
10 the catchall exception of the hearsay rule. And I understand
11 that we do have to show that it has circumstantial guarantees
12 of trustworthiness. When you put that statement in context
13 with the other statements that we seek to offer and you note
14 that it is recorded by the government during the time period of
15 this alleged conspiracy -- and I would note, this is almost two
16 months before the government took down this case. This is
17 almost two months before the government contends that this
18 alleged conspiracy ended, this alleged conspiracy to pay
19 coaches, and you have an alleged coconspirator telling his
20 supposed coconspirator, "you're not paying my guys," meaning
21 you and Jeff D'Angelo and whoever else is a party to your
22 little agreement to pay coaches, that you are not paying my
23 guys.

24 When you look at the codified exceptions to the
25 hearsay rule, the codified exceptions of the hearsay rule have

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1 sort of built in circumstantial guarantees of trustworthiness.
2 So, for example, they allow present sense impression, excited
3 utterance, then-existing mental or emotional or physical
4 condition, records of regularly collected activity, recorded
5 recollection. All of those categories, the exceptions to the
6 hearsay rule, have circumstantial guarantees of trustworthiness
7 because they relate to things that a declarant sees or does at
8 the time he sees or does it. Here, this relates to something
9 that the declarant sees and says at the time and during the
10 time period of the conspiracy.

11 So I believe that all the cases cited by
12 Mr. Solowiejczyk are distinguishable, and I have not found a
13 single case that deals with wiretapped conversations
14 intercepted by the government which the government then seeks
15 to exclude.

16 THE COURT: Are you agreeing, Mr. Moore, that the
17 statement that you're seeking to include does not, strictly
18 speaking, come within 803(3).

19 MR. MOORE: No, sir, your Honor, I am not. I do not
20 agree with that. I'm making an alternate argument in case the
21 Court chooses not to accept my present sense impression or
22 state of mind argument. That is an alternate theory of
23 admissibility. As I said, I think there are other alternate
24 theories of admissibility. To impeach Mr. Sood, depending on
25 what he says, and we don't know what he's going to say yet. So

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1 that's why I don't think a ruling at this time is appropriate.

2 I also believe, and I must say, that the government
3 knows this evidence exists. The government knows that this
4 evidence is exculpatory. The government seeks to exclude it,
5 but the government asks your Honor to rule either for them or
6 against them now, because if you rule against them now, they
7 seek to front it. I think that's a little unseemly.

8 THE COURT: Mr. Solowiejczyk.

9 MR. SOLOWIEJCZYK: Your Honor, a couple of points in
10 response to that. Number one, if there truly exists calls
11 between Merl Code and Christian Dawkins or Merl Code and Jeff
12 D'Angelo, actually, we're going to play one on direct, where
13 he's making a forward-looking statement about what's to come in
14 Las Vegas, we're not saying those may not fall under the state
15 of mind exception. In fact, we agreed to play one of those
16 with the defense over the weekend. It's going to come in under
17 direct.

18 What's happening here are the following:
19 Conversations that are actually forward-looking to that effect,
20 they don't really exist. So what they're trying to do is take
21 a statement by Mr. Code after the fact to Mr. Sood in which he
22 claims to have told Christian Dawkins, don't pay any coaches --
23 it's actually a lot more complicated than that -- but if they
24 want to admit these statements that are actually
25 forward-looking that Mr. Code made to Mr. D'Angelo or

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1 Mr. Dawkins saying, hey, when you guys go to Vegas, don't pay
2 coaches, that's a horse of a different color, but that's not
3 what we have here.

4 Your Honor, I think, respectfully, it requires a close
5 reading of the transcripts. I'm not expecting your Honor to
6 rule right this second. All we're saying is if the Court
7 actually is going to say this is admissible, the government
8 should have an opportunity to know that before it concludes its
9 direct examination of Mr. Sood. There's nothing unseemly about
10 that.

11 As to the residual exception, we don't think that this
12 call would fall in under that, but we can -- we just received
13 Mr. Moore's letter on that last night, even though the rule
14 says that you're supposed to give notice before trial.

15 THE COURT: Or hearing.

16 MR. SOLOWIEJCZYK: Or hearing. So, frankly, we don't
17 think it falls under that exception, but to fully respond to
18 that, we're going to need a little more time. But the reality
19 is it definitely does not fall under the state of mind
20 exception.

21 MR. MOORE: I would note that I gave the government
22 notice of the residual exception argument after -- shortly
23 after I received their letter motion seeking to exclude this.
24 We went back and forth with the government last week and over
25 the weekend, as we've been going back and forth with the

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1 government for several weeks about what statements they would
2 agree to admit and what statements they would not. I don't
3 believe that there's any lateness to my notice and intent to
4 rely on the residual exception. I would note there are cases
5 in various circuits on the flexibility of the notice
6 requirement depending on the facts in the particular case. I
7 litigated one in the Fourth Circuit years ago when I was a
8 prosecutor, and I can provide that citation to your Honor if
9 your Honor would like.

10 I agree that perhaps your Honor needs to read the
11 transcript carefully. I would simply note that the statements
12 by Mr. Code to Mr. Sood about what he has told Mr. Dawkins and
13 what he has told Mr. D'Angelo, that is to put the statement in
14 context that you're not paying my guys. The statement "you're
15 not paying my guys" is a statement of Mr. Code's intention that
16 day and a statement of Mr. Code's intention going forward with
17 respect to his intention to join and be a part of this
18 conspiracy.

19 MR. HANEY: Your Honor, may I? I understand, at least
20 from what Mr. Solowiejczyk said, my issue may be a little bit
21 more of an immediate issue. I know I don't have the floor for
22 very long, but I would like to impress upon the Court the
23 context of the call that he's referencing that may be played
24 imminently is not being represented accurately. The context of
25 the call originates out of Book Richardson at a meeting with

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1 Munish Sood and Jeff D'Angelo where Jeff D'Angelo pays Book
2 Richardson, the coach, \$5,000. During the course of that phone
3 conversation, Munish Sood and Christian Dawkins are laughing
4 about why Jeff D'Angelo would have made that payment.

5 A later point of that phone call, Munish Sood suggests
6 they get Jeff D'Angelo back to the hotel so they can stroke him
7 off a little more, which is a forward-thinking act, obviously,
8 but they're in the context, still, of laughing about what had
9 happened earlier in the day. And what the government seeks to
10 do is play a portion of a wiretapped recording and not the
11 complete portion of that recording, which they should under the
12 rule of completeness play the whole recording so the jury can
13 have the context of really what is going on with these two
14 gentlemen, which is they're both laughing at why Jeff D'Angelo
15 is paying coaches. And Munish Sood, he's articulating to
16 Christian Dawkins, as Dawkins is to Sood, how it doesn't make
17 sense to pay coaches, and Sood suggests to get him back to the
18 hotel for a later meeting that afternoon to stroke him off a
19 little more, "more" being the operative word, which means
20 they've been stroking him off the whole time.

21 Your Honor, I don't see how they could suggest that
22 under the rule of completeness, under the effect on the
23 listener that that call should not be played in its entirety.
24 And it's a very short phone call. It's a call that only lasts
25 maybe three minutes. So I would submit that the whole call

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1 should be played to the jury. Let the jury be the one to
2 determine what the context of that conversation is, what did
3 Munish Sood mean by "let's get him back and stroke him off a
4 little more."

5 Thank you, your Honor.

6 THE COURT: Mr. Solowiejczyk.

7 MR. SOLOWIEJCZYK: Your Honor, briefly, to be clear,
8 we had extensive negotiations with the defense about this call,
9 and we're playing page 1, line 1, through page 4, line 24,
10 which actually makes all the points that Mr. Haney just said.
11 It's very -- that's because when we gave this call a close
12 look, we're reasonable people, and we said, you know what?
13 This one actually does fall under the state of mind exception
14 and is admissible.

15 But the way the rule of completeness works is not
16 that, well, since we're putting part of the call in, let's put
17 all of the call in. That's not how it works. There's nothing
18 about what follows that puts anything in context from what came
19 before. The part of the conversation that we've excluded
20 relates to a player named Kyle Kuzma that Mr. Sood represents.
21 It relates to an upcoming meeting with Raymond Brothers. And
22 the points that Mr. Haney just made, they're all covered in the
23 first part of the call. So there really is very limited
24 relevance, other than trying to get in a rather inflammatory
25 quote at the end of the call that, at the end of the day, has

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1 no bearing here.

2 THE COURT: I guess I'm trying to understand
3 Mr. Haney's comment that it's Mr. Sood and Mr. Dawkins laughing
4 at the undercover. I thought that the whole scheme here was to
5 pay off the coaches.

6 MR. HANEY: Your Honor, you could listen to this one
7 phone call and determine very clearly that is not the scheme.
8 And Munish Sood, despite what he's going to testify to, he's on
9 a wiretap recording with my client laughing about why Jeff
10 D'Angelo's paying Book Richardson \$5,000 when Book Richardson's
11 going to send players to them anyway. Jeff D'Angelo -- I'm
12 sorry, Munish Sood actually says during that call: He's dying
13 man. He's dying. Don't wake him up. Don't wake up Jeff
14 D'Angelo because he's stupid enough to pay Book Richardson.
15 And then Munish Sood says: Let's get him back to the hotel at
16 6 o'clock and stroke him off some more.

17 THE COURT: Wasn't Munish Sood also paying coaches?

18 MR. SOLOWIEJCZYK: Yes, yeah. This is one call.
19 There's many events around it and that follow that make clear
20 their paying coaches and they actually expect something in
21 return for that. But, obviously, that's going to be for the
22 jury to decide, ultimately. So --

23 MR. HANEY: Your Honor, Munish Sood and Marty Blazer
24 were paying coaches for their financial planning outfit.

25 MR. SOLOWIEJCZYK: At the end of the day, these are

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1 jury arguments. We're letting the call in, so Mr. Haney's
2 going to be able to make whatever arguments he wants. Yes,
3 it's true, during this call they made fun of Jeff D'Angelo.
4 Nobody' denying that. The reason they're making fun of him,
5 Mr. Sood can explain that on direct examination. He seems to
6 be head over heels that they've introduced him to a coach.

7 THE COURT: I'm sorry. Is the government objecting to
8 Mr. Haney's use of the latter portion of this tape during his
9 cross-examination?

10 MR. SOLOWIEJCZYK: We don't think he should be allowed
11 to offer that part of the tape, no. He can ask Mr. Sood on
12 cross-examination questions generally about what conversations
13 he had with Dawkins, but we don't think that that's a basis to
14 admit that portion of the tape.

15 THE COURT: What's your objection to this portion of
16 the tape? Is it relevance?

17 MR. SOLOWIEJCZYK: It's a combination of relevance and
18 also hearsay. Just because -- the defense is quite limited
19 under the Rules of Evidence in what recordings they can offer
20 themselves. There's limited exceptions. This part of the
21 recording doesn't fall under any of them.

22 MR. HANEY: Just briefly, your Honor, without the word
23 "more," perhaps he has an argument, right? If he says, "Let's
24 stroke him off," perhaps he has an argument. When he says,
25 "Let's stroke him off a little more," he's referencing, like we

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1 did earlier today when we stroked him off to give Book
2 Richardson, your buddy, \$5,000 when it -- he's going to give
3 his coaches anyway. So, clearly, "let's stroke him off a
4 little more" is coming out of Munish Sood's mouth, not
5 Christian Dawkins. He's talking about getting D'Angelo back to
6 the hotel so they can continue to scam him like they did
7 throughout the entire scheme.

8 Thank you, your Honor. Your Honor, I would simply
9 note, in closing, that when you look at Rule 106, I do not
10 believe that Mr. Solowiejczyk's interpretation of Rule 106 is
11 correct. It says if a party introduces all or part of a
12 writing or recorded statement, an adverse party may require the
13 introduction at that time of any other part or any other
14 writing or recorded statement that, in fairness, ought to be
15 considered at the same time. I actually think that all of the
16 recordings that we seek to show, seek to introduce here, not
17 only during the cross-examination of this witness but the
18 recordings that we seek to play in the defense case, are
19 covered by Rule 106. Fairness ought to be considered is the
20 standard.

21 MR. SOLOWIEJCZYK: Your Honor, there's a lot of law on
22 the rule of completeness, and what Mr. Moore just said is not
23 really a totally accurate statement. But we're happy, if your
24 Honor's actually considering driving a bus through the hearsay
25 exception using the rule of completeness, we're happy to send a

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1 letter that will make very clear that that's not what the
2 defense is allowed to do. The Rules of Evidence exist for a
3 reason.

4 THE COURT: Yes, at the end of the day, this decision
5 is not going to be driven by the rule of completeness because I
6 think, first of all, the jury now has been trained to learn
7 that these conversations are coming in piecemeal. And if, at
8 the end of the day, the defense is going to be allowed to use
9 it, they can use it in their cross-examination, and I don't
10 think they would be prejudiced in the least by not having it
11 played during the the government's direct. But I will reserve
12 for now so that I can read these things a little bit more
13 closely.

14 What about the instructions to the jury?

15 MR. CHANEY: Yes. Your Honor, we submitted those now,
16 instead of at the conclusion of the trial, because I think both
17 instructions are appropriate to be given to the jury sort of
18 contemporaneously with their receiving the evidence that we're
19 sort of -- that's being admitted for a limited purpose. If I
20 had thought about it more in advance, I think it would have
21 been appropriate at the beginning of Mr. Sood's testimony,
22 contemporaneous with or immediately before Mr. Solowiejczyk
23 asked Mr. Sood whether or not he had pleaded guilty in
24 participation of the very conduct that we're talking about in
25 this case.

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1 So I think the limiting instruction with respect to
2 the codefendant plea is ripe now and something that the jury
3 should be instructed about when they come in this morning. I
4 think, additionally, to the extent -- and I believe that this
5 is going to happen -- that we go back through any of the
6 recordings that involve statements by Mr. D'Angelo or Ms.
7 Bailey, that a contemporaneous reading of the hearsay limiting
8 instruction would be appropriate at that time.

9 My sort of review of what the government's response to
10 the defense instructions were is that it really goes more to
11 the language choices, the phraseology of those instructions,
12 and not so much the content. So I think the parties agree that
13 the content's appropriate.

14 THE COURT: Mr. Mark?

15 MR. MARK: I wouldn't say the parties agree. There's
16 a lot of unnecessary language in the defendants' instructions.
17 These were obvious issues that were going to come up at trial.
18 Obviously, the defense just sort of sprung this in now at this
19 moment, which is quite late for sort of obvious issues that are
20 going to come up. The government proposed these as part of its
21 request to charge. It's standard in this district that this
22 sort of instruction would come in at a request to charge, not
23 sort of disjunctively in the middle of trial. So we would
24 object to them being instructed at this point in time. But to
25 the consideration the Court is considering whether to have any

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1 instructions, we would sort of rest on our submission as to
2 what would be an appropriate instruction.

3 THE COURT: I'm happy to use the government's
4 proposal, and I think it's appropriate to let the jury know
5 now. So I will give the two instructions that the government
6 submitted. I do agree the point is the same, but we'll go with
7 that. I'll do that when the jury comes out. OK.

8 MR. MARK: Your Honor, the government has some other
9 matters, but I think we'll wait till a later break.

10 THE COURT: If the jury's here, we're going to start.
11 Is Mr. Sood here?

12 MR. VOORDERIS: Yes, your Honor.

13 THE COURT: Can we bring him in.

14 MR. MOORE: Your Honor, could I ask, because I'm going
15 to pay attention to Juror No. 3, could I ask that your Honor
16 keep an eye on her because at some point, if she continues to
17 fall asleep, we may have an application.

18 THE COURT: Very well. Are we good to go?

19 MR. CHANEY: We are, Judge.

20 THE COURT: OK.

21 (Continued on next page)
22
23
24
25

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1 (Jury present)

2 THE COURT: Everyone please be seated.

3 Ladies and gentlemen, good morning. Thank you, as
4 always, for being prompt. I trust you all had a restful and
5 pleasant weekend. We're going to begin -- continue presently
6 with the direct examination of Mr. Sood. However, before we do
7 that, there's just a couple of instructions that I need to give
8 you on the law so that you bear it in mind as you continue to
9 listen to the testimony.

10 First of all, you have heard testimony from Mr. Sood
11 that he pled guilty to charges arising out of the same facts as
12 this case. You are instructed that you are to draw no
13 conclusions or inferences of any kind about the guilt of
14 Mr. Sood or about the guilt of any defendant on trial from the
15 fact that Mr. Sood pled guilty to similar charges. Mr. Sood's
16 decision to plead guilty was a personal decision about his own
17 guilt. It may not be used by you in any way as evidence
18 against or unfavorable to the defendant on trial here, OK?

19 Secondly, you have also heard and seen videotapes of
20 meetings involving undercover FBI agents. You are instructed
21 that the statements by the undercover law enforcement witnesses
22 are being admitted not for the truth, but, rather, to put in
23 context statements by the defendants and by coconspirators. We
24 couldn't redact the statements of the under undercovers out
25 even though they're not evidence because that way you would not

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Sood - Direct

1 be able to make sense of the conversation if you were only
2 hearing half of the conversation. So these statements are
3 being provided simply so that you have the conversation in
4 could context.

5 With that, Mr. Solowiejczyk.

6 MR. SOLOWIEJCZYK: Thank you, your Honor.

7 MUNISH SOOD, resumed.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. SOLOWIEJCZYK:

10 Q. Good morning, Mr. Sood.

11 A. Good morning.

12 Q. Just to reorient the jury, I think when you testified on
13 Friday, Mr. Sood, you spoke about attending an NBA draft party?

14 A. Yes.

15 Q. What player was that for?

16 A. PJ Dozier.

17 Q. Who facilitated the introduction for you to PJ Dozier?

18 A. Christian Dawkins.

19 Q. Was there a coach involved in that introduction as well?

20 A. Yes, Lamont Evans.

21 Q. I believe you testified that PJ Dozier went undrafted, is
22 that right?

23 A. Correct.

24 Q. After the draft party, did you speak to Christian Dawkins
25 about it?

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Sood - Direct

1 A. Yes.

2 Q. Was that by phone?

3 A. Yes.

4 MR. SOLOWIEJCZYK: Your Honor, at this time the
5 government offers Government Exhibit 106 and 106T pursuant to
6 the authenticity stipulation.

7 THE COURT: Any objection?

8 MR. HANEY: No objection, your Honor.

9 MR. MOORE: No objection, your Honor.

10 THE COURT: 106 and T will be admitted.

11 (Government's Exhibits 106 and 106T received in
12 evidence)

13 MR. SOLOWIEJCZYK: This is a June 23, 2017, call
14 between Christian Dawkins and Munish Sood.

15 (Audio played)

16 BY MR. SOLOWIEJCZYK:

17 Q. All right. Mr. Sood, just a couple questions for you about
18 that recording. If you could take a look back first, Mr. Sood,
19 and we're going to talk about this a few minutes, but by
20 June 23, 2017, had you started a new company with Christian
21 Dawkins?

22 A. Yes.

23 Q. Take a look at page 3, and I'm going to direct your
24 attention specifically to lines 6 through 9.

25 Mr. Sood, during this part of the conversation, what

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Sood - Direct

1 were you telling Christian Dawkins?

2 A. That Lamont Evans had advised PJ Dozier to work with
3 Christian Dawkins and the new firm; but, rather, they went with
4 a different agent.

5 Q. Did you have a conversation with Lamont Evans to that
6 effect?

7 A. Yes.

8 Q. Prior to the draft, Mr. Sood, had you had any discussions
9 with Christian Dawkins regarding recruiting PJ Dozier as a
10 client?

11 A. Yes.

12 Q. Now, Mr. Sood, at this time, June 23, 2017, what, if
13 anything, did you know about if anyone had previously paid
14 Lamont Evans?

15 A. That Lamont Evans was paid by Christian Dawkins and Marty
16 Blazer.

17 Q. And soon after this call did you, in fact, pay Lamont
18 Evans?

19 A. I did.

20 Q. Why'd you pay him?

21 A. One of the reasons was because he helped set this meeting
22 up with the family, and then two was he was -- Marty had been
23 asking me to pay him for a while.

24 Q. When you say "the family," who do you mean?

25 A. Mother.

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Sood - Direct

1 Q. Of who?

2 A. The mom.

3 Q. Which player?

4 A. PJ Dozier.

5 Q. Mr. Sood, at page 4 you talked about a couple other
6 players. You mentioned somebody named Kyle. Who was that?

7 A. Kyle Kuzma.

8 Q. And you mentioned somebody made Davon. Who that is?

9 A. Davon Reed.

10 Q. Then you mentioned someone named Patton. Who was that?

11 A. Justin Patton.

12 Q. All right. Mr. Sood, around this time in late June 2017,
13 did you see Mr. Evans again in person?

14 A. Yes.

15 Q. Do you recall where that occurred?

16 A. New York. Manhattan, New York City.

17 Q. Mr. Sood, if I told you it might be Miami, Florida, would
18 that sound correct to you?

19 A. Oh, yes, sorry.

20 MR. HANEY: Objection. Testifying. Leading.

21 THE COURT: Overruled.

22 MR. HANEY: Thank you.

23 Q. Did you inform Christian Dawkins about the fact you were
24 going to be seeing Lamont Evans?

25 A. Yes.

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Sood - Direct

1 MR. SOLOWIEJCZYK: If we could just show the witness,
2 Ms. Bustillo, Government Exhibit 1632B. If you could zoom in a
3 little bit.

4 Q. You also have a binder in front of you, Mr. Sood, to the
5 extent that's easier.

6 Do you recognize this document?

7 A. Yes.

8 Q. What is it?

9 A. It's a text message exchange between myself and Christian.

10 MR. SOLOWIEJCZYK: Your Honor, the government offers
11 1632B.

12 THE COURT: Any objection?

13 MR. HANEY: No objection, your Honor.

14 THE COURT: 1632B will be received.

15 (Government's Exhibit 1632B received in evidence)

16 BY MR. SOLOWIEJCZYK:

17 Q. All right. Mr. Sood, when the messages say "direction
18 incoming," who are those messages from?

19 A. They're from me.

20 Q. When it says "outgoing," who are those messages from?

21 A. Christian.

22 Q. I want to start by directing your attention to the top
23 message. I believe you -- could you just read that message,
24 actually. This is from you, right?

25 A. Oh. "Good. Just saw Lamont in Miami. On my way to

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Sood - Direct

1 Bolivia. You guys should sit down. Jeff funding him, so we
2 may as well take advantage of it."

3 MR. SOLOWIEJCZYK: Ms. Bustillo, could you zoom in on
4 that, on that one message, please.

5 Q. Mr. Sood, when you said this, what did you mean by it?

6 A. That Christian should sit down with Lamont to figure out
7 what players he can be recommending to us at the new company.

8 Q. Mr. Sood, when you said, "Jeff funding him, so we may as
9 well take advantage of it," what did you mean by "take
10 advantage of it"?

11 A. Since Jeff was giving money to Lamont Evans, we should be
12 seeing some results from this relationship.

13 Q. What kind of results?

14 A. Like access to players.

15 MR. SOLOWIEJCZYK: All right. You can zoom out,
16 Ms. Bustillo.

17 Q. Going further down the page, if you could zoom in on that
18 middle portion.

19 Q. Dawkins said to you, "I need my money back on PJ. He's got
20 650. Lamont has it." Did you understand what Dawkins meant?

21 A. That Lamont Evans owed Christian \$650.

22 Q. For what?

23 A. More money he must have advanced him in -- previously.

24 Q. For which player?

25 A. For PJ Dozier.

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Sood - Direct

1 MR. SOLOWIEJCZYK: You can zoom out, Ms. Bustillo.

2 Q. Going down to the bottom of the page, starting with the
3 message that says, "No, Lamont can pay me back," when
4 Mr. Dawkins said to you, "No, Lamont can pay me back. I
5 funneled the money through him," did you understand what he
6 meant?

7 A. That he had given money to PJ or his family through Lamont
8 Evans, so he should pay him back, pay Christian back.

9 MR. SOLOWIEJCZYK: OK. You can take that down.

10 Q. Mr. Sood, on Friday I think you had started to talk about
11 conversations you were having with Christian Dawkins about
12 starting a new company?

13 A. Correct.

14 Q. And around this time, I believe you said Mr. Dawkins had
15 left ASM Sports, right?

16 A. Yes.

17 Q. Can you generally describe, Mr. Sood, what the business
18 model was going to be for this new company?

19 A. The business model was really to represent college players
20 who were turning pro, helping them identify sports agents,
21 financial advisers, accountants, marketing; and in return, we
22 would receive a portion of the fees from the service providers.

23 Q. I believe you testified that you introduced a new potential
24 investor to Mr. Dawkins, right?

25 A. Yes.

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Sood - Direct

1 Q. Who was that?

2 A. Jeff D'Angelo.

3 Q. And you met Mr. D'Angelo through Marty Blazer?

4 A. Correct.

5 Q. What did you -- who did you understand Jeff D'Angelo was at
6 the time you first met him?

7 A. Wealthy businessman in real estate.

8 Q. What did you later learn about him?

9 A. That he was undercover FBI agent.

10 Q. When did you learn that?

11 A. When I was arrested.

12 Q. Mr. Sood, when were you are arrested?

13 A. September 26, '17.

14 Q. On the day of your arrest, did you speak with law
15 enforcement voluntarily?

16 A. Yes.

17 Q. Were you questioned about your activities involving college
18 basketball?

19 A. Yes.

20 Q. Mr. Sood, during that interview, were you asked about
21 certain payments that you had made to coaches and others?

22 A. Yes.

23 Q. Were you truthful about those subjects at that time?

24 A. No.

25 Q. Mr. Sood, what sorts of things did you lie about on the day

J4THDaw1

Sood - Direct

1 of your arrest?

2 A. The number of coaches that were paid and the dollar amount
3 to family members.

4 Q. Why did you lie, Mr. Sood?

5 A. I was scared. I didn't want to get caught.

6 Q. After you were arrested, did you later decide to cooperate
7 with law enforcement?

8 A. Yes.

9 Q. Did you participate in meetings with the government?

10 A. Yes.

11 Q. Who else was present for those meetings?

12 A. My attorney.

13 Q. At those meetings, did you tell the government the truth
14 about what you did?

15 A. Yes.

16 Q. At those meetings, were you required to tell the government
17 about any other wrongdoing you were involved in?

18 A. Yes.

19 Q. As part of your cooperation with the government, have you
20 also met with another U.S. Attorney's Office regarding a
21 separate investigation?

22 A. Yes.

23 Q. Generally, what was the subject of those interviews?

24 A. That was regarding commercial loans done during my tenure
25 as a director at a bank.

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Sood - Direct

1 Q. Mr. Sood, are you aware whether there's an ongoing SEC
2 investigation regarding your conduct?

3 A. Yes.

4 Q. What's your understanding regarding the status of that
5 investigation?

6 A. That my attorneys are handling the discussions and the
7 negotiations.

8 Q. Did there come a time when you pleaded guilty?

9 A. Yes.

10 Q. Generally, what conduct did your guilty plea cover?

11 A. Bribing a coach and wire fraud.

12 Q. What did the wire fraud relate to, generally?

13 A. Paying players and coaches.

14 Q. Who were some of the coaches that you either paid yourself
15 or that you agreed to pay?

16 A. Tony Bland, Emanuel Richardson, and Lamont Evans.

17 Q. Did you have an agreement with the government at the time
18 you pled guilty?

19 A. Yes.

20 Q. What kind of agreement did you have?

21 A. A cooperation agreement.

22 Q. Mr. Sood, what benefit were you hoping for as a result of
23 the cooperation agreement?

24 A. To get the least sentence possible.

25 Q. Have you met with the government in connection with your

J4THDawl

Sood - Direct

1 cooperation?

2 A. Yes.

3 Q. Fair to say you've met with the government many times at
4 this point?

5 A. Yes, many times.

6 MR. SOLOWIEJCZYK: If we could just show for the
7 witness only, Ms. Bustillo, Government Exhibit 658.

8 Q. Do you recognize this document?

9 A. Yes.

10 Q. What is it?

11 A. The cooperation agreement.

12 Q. Could you turn to the last page. Do you see your signature
13 on the agreement?

14 A. Yes.

15 MR. SOLOWIEJCZYK: Government offers Government
16 Exhibit 658.

17 THE COURT: Any objection?

18 MR. HANEY: No objection.

19 MR. MOORE: No objection.

20 THE COURT: 658 will be received.

21 (Government's Exhibit 658 received in evidence)

22 BY MR. SOLOWIEJCZYK:

23 Q. Mr. Sood, what's your understanding of what you are
24 required to do under this agreement?

25 A. Required to tell the truth, provide information that's --

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Sood - Direct

1 that I have regarding the case, meet as required, and not
2 commit any -- any crimes.

3 Q. If you live up to your obligations under the cooperation
4 agreement, what's your understanding of what the government
5 will do?

6 A. They will give my judge a 5K letter.

7 Q. What's your understanding of what information is contained
8 in a 5K letter?

9 A. It contains the crimes I committed and also the help I
10 provided.

11 Q. What are you hoping will happen as a result of the
12 government writing that letter to the judge?

13 A. To get the least amount of sentence.

14 Q. Will the government recommend a specific sentence to the
15 judge?

16 A. No.

17 Q. Mr. Sood, under this plea agreement, did you also receive
18 immunity for anything?

19 A. Yes.

20 Q. For what?

21 A. Lying to the FBI.

22 Q. Was that on the day of your arrest?

23 A. Yes.

24 Q. Does this agreement provide you any protection with respect
25 to the SEC investigation that you mentioned?

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Sood - Direct

1 A. No.

2 Q. What's the highest possible sentence that you can receive
3 for all of the crimes that you pleaded guilty to?

4 A. Thirty-five years.

5 Q. Is 35 years the maximum punishment even if the government
6 writes the 5K letter?

7 A. Yes.

8 Q. You also face financial penalties?

9 A. Yes.

10 Q. What's your understanding of who will ultimately decide
11 your sentence?

12 A. Judge.

13 Q. Is the judge required to give you a lower sentence if the
14 government writes the 5K letter?

15 A. No.

16 Q. If you violate the cooperation agreement, do you believe
17 that the government will still write that letter to the judge?

18 A. No.

19 Q. Have you been promised that you will get a lower sentence
20 as a result of your cooperation?

21 A. No.

22 Q. Have any promises been made to you about the sentence that
23 you're going to get in this case?

24 A. No.

25 Q. Do you believe the outcome of this trial will have any

J4THDaw1

Sood - Direct

1 effect whatsoever on whether the government writes that letter
2 to the judge?

3 A. No.

4 Q. What's your understanding of what does matter under the
5 agreement?

6 A. Tell the truth.

7 Q. What happens if you're not truthful here today?

8 A. The government will rip up the -- the cooperation letter.

9 Q. Are you still bound by your guilty plea at that point?

10 A. Yes.

11 MR. SOLOWIEJCZYK: You can take that down,
12 Ms. Bustillo.

13 Q. Mr. Sood, I want to turn back to the formation of this new
14 company with Christian Dawkins and others. I think you were
15 talking about a new investor named Jeff D'Angelo. Did there
16 come a time when you introduced Jeff D'Angelo to Christian
17 Dawkins?

18 A. Yes.

19 Q. Do you recall where that happened?

20 A. I was in a restaurant in Manhattan, New York.

21 Q. What was the purpose of that meeting?

22 A. Just to introduce Christian to Jeff and then also discuss
23 the new company he wanted to create.

24 Q. What were you hoping was going to be the outcome of that
25 meeting?

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Sood - Direct

1 A. That Jeff would consider investing in the company.

2 MR. SOLOWIEJCZYK: Your Honor, at this time the
3 government would offer Government Exhibits 506B through 506F
4 and 506BT through 506FT, which are recordings of a May 16,
5 2017, meeting and the associated transcripts.

6 THE COURT: Any objection?

7 MR. HANEY: No objection, your Honor.

8 MR. MOORE: No objection, your Honor.

9 THE COURT: Those exhibits will be received.

10 (Government's Exhibits 506B through 506F and 506BT
11 through 506FT received in evidence)

12 BY MR. SOLOWIEJCZYK:

13 Q. Mr. Sood, prior to testifying here today, did you review a
14 recording of that meeting that you mentioned in Midtown
15 Manhattan?

16 A. Yes.

17 Q. At the time of the meeting, did you know it was being
18 recorded?

19 A. No.

20 MR. SOLOWIEJCZYK: All right. If we could play,
21 Ms. Bustillo, Government Exhibit 506B. And this is a portion
22 of the May 16, 2017, meeting between Christian Dawkins, Munish
23 Sood, and Jeff D'Angelo.

24 (Audio played)

25 MR. SOLOWIEJCZYK: Pause for one second.

J4THDaw1

Sood - Direct

1 Q. Who's talking right now, Mr. Sood?

2 A. Christian Dawkins.

3 MR. SOLOWIEJCZYK: Ms. Bustillo, is it possible to
4 make it a little louder? Thank you.

5 (Audio played)

6 BY MR. SOLOWIEJCZYK:

7 Q. Mr. Sood, what was Mr. Dawkins generally describing during
8 that portion of the meeting?

9 A. He was just outlining the business strategy, which is give
10 potential player clients an option of three to four
11 agents/advisers, so this way they have the ability to pick what
12 makes the best sense. But we've done -- we've -- we would do
13 the sourcing so we can confirm which may be the best option for
14 them.

15 Q. By doing the sourcing, how are you going to benefit from
16 that financially?

17 A. Because then, regardless of the agents they choose, we
18 would get a piece of the fees.

19 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could play the
20 next clip, which is another portion of the May 16, 2017,
21 meeting, Government Exhibit 506C.

22 (Audio played)

23 Q. OK. Mr. Sood, I just want to ask you a couple questions
24 about some of the conversation we just heard.

25 If you could go back to page 1, and specifically

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Sood - Direct

1 focusing you on lines 3 through 5, when Mr. Dawkins said, "The
2 key to all of this stuff is controlling the assets, that's what
3 it is. It sounds negative. It's the bottom up," did you
4 understand what that meant?

5 A. He was referring to players.

6 Q. And what specifically was he telling you?

7 A. That if you can control the player, it will make it easier
8 for the player to work with us.

9 Q. During this part of the conversation, what generally was
10 Dawkins discussing when it came to controlling the players?

11 A. That based on his relationships, he can start controlling
12 them as early as high school.

13 Q. Now, there was some discussion during this part of the
14 conversation regarding a player named Brian Bowen. Who is
15 that?

16 A. A high school player.

17 Q. Did you understand generally what Mr. Dawkins was telling
18 you during this conversation regarding Brian Bowen's
19 recruitment process?

20 A. That he was a highly -- a top prospect, but based on his
21 relationship with Brian and also his relationship with other
22 schools, he could leverage that relationship to secure a top 15
23 draft pick by sending that -- sending Brian Bowen to a
24 particular school.

25 Q. When you said "he," who were you referring to?

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Sood - Direct

1 A. Christian.

2 Q. What was the role, if any, of the college coaches in that?

3 A. They would then direct a top 15 player to Christian and the
4 new firm.

5 Q. All right. Taking a look a little later in the
6 conversation at page 6, specifically referring to lines 11
7 through about 18 or so, Mr. Dawkins said to you: "But some
8 coaches don't have nothing to do with it at all, and some
9 coaches have the guys with just exclusivity. And it's like,
10 listen, you ain't -- if you ain't going with this guy, it's
11 going to make it a pretty F'ing fit, you know? I'm sure
12 they're getting some not guilty return for that access."

13 Did you understand what Mr. Dawkins was referring to
14 here?

15 A. That there were certain coaches who already had preexisting
16 relationships with agents and advisers, so it would be
17 difficult for us to work with them, and then some coaches did
18 not participate in taking money for referring players.

19 Q. When Mr. Dawkins said, "I'm sure they're getting something
20 in return for that access," did you understand what that meant?

21 A. Money.

22 Q. Who was getting money?

23 A. The coaches.

24 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could now play
25 Government Exhibit 506D, which is another portion of the

J4THDawl

Sood - Direct

1 May 16, 2017, meeting between Christian Dawkins, Jeff D'Angelo,
2 and Munish Sood.

3 (Audio played)

4 BY MR. SOLOWIEJCZYK:

5 Q. Mr. Sood, just looking back at page 1 of the transcript,
6 and specifically the statement by Mr. Dawkins, it starts at
7 line 23 and runs through the top of page 2, he said to you,
8 "You got a relationship with them. Let's say, for instance,
9 someone's recruiting LeBron James and you're his guy. He may
10 say, Look, and so I can get you LeBron. I got the kid. I need
11 to get some financing to get everything done. You come in, you
12 take care of him, and it's your kid."

13 Did you understand what Mr. Dawkins was referring to
14 here?

15 A. That he's giving example of how a coach may -- would
16 require money to pay a handler or a -- someone that's related
17 to him. In this case, he used LeBron as an example, in order
18 to convince LeBron to go to the schools where the coach is
19 coaching.

20 Q. If somebody provided that financing to the coach, what, if
21 anything, would be the result of that?

22 A. Having access to that player.

23 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could go to
24 Government Exhibit 506E, we can play this one. Thank you.

25 (Audio played)

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Sood - Direct

1 Q. Mr. Sood, there was some mention to Lamont. Who were you
2 referring to there?

3 A. Lamont Evans.

4 Q. Where was he coaching at that time?

5 A. He was at, sorry, Oklahoma State.

6 Q. What, if anything, was Dawkins saying during this portion
7 of the meeting regarding how Lamont Evans had gotten the job at
8 Oklahoma State?

9 A. That he, Christian, had helped use his relationship to help
10 Lamont get the job at Oklahoma State and a better salary.

11 MR. SOLOWIEJCZYK: If we could go to 506F,
12 Ms. Bustillo.

13 (Audio played)

14 Q. All right. Mr. Sood, going back to page 2, when Dawkins
15 said to you, "If we're taking care of everybody and everything
16 is done, we control everything. That's why I said it doesn't
17 make sense to -- what's the extra five grand when you can make
18 millions off of one kid? That's what I'm saying," what did you
19 understand that to mean, Mr. Sood?

20 A. That if we paid the -- if we provided money to the right --
21 the right people, coaches or family members or both, that would
22 position us to retain a client, retain a player when he goes
23 pro, and the returns were very -- were great.

24 Q. Going to page 3, Mr. Sood, starting at line 4 of that page,
25 Mr. Dawkins says to you, "If we have the coaches, that means

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Sood - Direct

1 you can save us money and expenses having to F'ing go down
2 there and hold the guy's Dick. If we don't have the coaches,
3 that means I have to be in that city every month or two weeks,"
4 what did you understand that to mean, Mr. Sood?

5 A. With working with the coaches, they would have influence
6 over the player and they would keep other agents away. And
7 then, also, it would be easier for us to maintain the
8 relationships since we can't be there every day.

9 Q. Now, Mr. Sood, after this initial meeting with Jeff
10 D'Angelo and Christian Dawkins, did you have additional
11 discussions with Mr. D'Angelo about the possibility of
12 investing?

13 A. Yes.

14 Q. Soon after that did you have another meeting with him?

15 A. Yes.

16 Q. Where did that occur?

17 A. In New York City.

18 Q. Mr. Sood, was Mr. Blazer also present for that meeting?

19 A. Yes.

20 Q. Now, during that meeting, did there come a point when you
21 spoke to Christian Dawkins?

22 A. Yes.

23 Q. How did you do that?

24 A. Via phone.

25 Q. Were you holding the phone to your ear or did you have him

J4THDaw1

Sood - Direct

1 on speakerphone?

2 A. It was a conference call. He was on speaker.

3 MR. SOLOWIEJCZYK: At this time, your Honor, the
4 government would offer Government Exhibit 507.

5 THE COURT: Any objection?

6 MR. HANEY: No objection, your Honor.

7 MR. SOLOWIEJCZYK: And the related transcript, 507T.
8 And government offers it at this time, your Honor.

9 THE COURT: There being no objection, it will be
10 received.

11 (Government's Exhibits 507 and 507T received in
12 evidence)

13 MR. SOLOWIEJCZYK: Ms. Bustillo, when you're ready, if
14 you could play Government Exhibit 507 and the associated
15 transcript, 507T.

16 (Audio played)

17 MR. SOLOWIEJCZYK: Can you pause it. You can keep
18 going, Ms. Bustillo, when you're ready.

19 (Audio played)

20 BY MR. SOLOWIEJCZYK:

21 Q. All right. Mr. Sood, if you could turn back to page 1 of
22 the transcript, and focusing your attention on lines 16 through
23 21, you said, "You know one of the things that we want to
24 confirm is that you work closely with, like, guys like Lamont,
25 Book, and they become a good resource for us and they -- you

J4THDawl

Sood - Direct

1 know, it's a good way to make sure that kids work for us."

2 Who is Lamont and who is Book?

3 A. Lamont was Lamont Evans and Book was Emanuel Richardson.

4 Q. Where did Emanuel Richardson coach at that time?

5 A. University of Arizona.

6 Q. During this phone call, what were you asking Dawkins for
7 specifically?

8 A. List of his relationships and coaches that he'd want to
9 work with.

10 Q. At that time why was that relevant to you, Mr. Sood?

11 A. To figure out how much money he may require to -- for them
12 to recruit players.

13 Q. Looking at page 4, specifically lines 2 through 9, you said
14 to Mr. Dawkins, "So part of the solution we want to provide is
15 like what we do with Lamont. Is -- you know, you introduce us
16 to Lamont; you introduce me to Book. We go to them and say,
17 how can we help you outside of, you know, what we're talking
18 about on the business side?"

19 What did you mean by that, Mr. Sood?

20 A. That we were going to be providing them money for
21 recruiting if they will need any type of resources.

22 Q. Why did you specifically mention Lamont and Book in that
23 context?

24 A. Because those are two coaches that I had met with and had
25 spoken with.

J4THDaw1

Sood - Direct

1 Q. Mr. Sood, by this point, May 2017, what, if anything, did
2 you understand regarding the types of monetary needs that
3 assistance coaches might have?

4 A. They had monetary needs to recruit. Some of them were
5 using their own moneys, but if we could provide that, if we
6 could provide the money, then we get access to their players.

7 MR. SOLOWIEJCZYK: You can take that down,
8 Ms. Bustillo.

9 Q. Mr. Sood, during these ongoing discussions with Jeff
10 D'Angelo about investing, were you in frequent contact with
11 Christian Dawkins during that time?

12 A. Yes.

13 Q. Did you keep him apprised of the discussions you were
14 having with D'Angelo about his investment?

15 A. Yes.

16 Q. Did you speak to him regularly by phone?

17 A. Yes.

18 MR. SOLOWIEJCZYK: At this time, your Honor, the
19 government would offer Government Exhibit 203 and 203T.

20 THE COURT: Any objection?

21 MR. HANEY: No objection, your Honor.

22 MR. MOORE: No objection.

23 THE COURT: 203 and 203T will be received.

24 (Government's Exhibits 203 and 203T received in
25 evidence)

J4THDaw1

Sood - Direct

1 MR. SOLOWIEJCZYK: This is a May 31, 2017, phone call
2 between Munish Sood and Christian Dawkins.

3 (Audio played)

4 BY MR. SOLOWIEJCZYK:

5 Q. All right. Mr. Sood, turning back to page 2 of the
6 transcript, you said to Mr. Dawkins, this is at line 5, "While
7 you're sitting on the plane, can you send us a list of the
8 coaches, you know, that's most important to us, your top ten or
9 top 15 coaches that, you know, we could be working with going
10 forward, or whatever the number maybe." What were you asking
11 Mr. Dawkins for at this point?

12 A. A list of coaches that we would want to engage to recruit.

13 Q. When you say "engage," what do you mean, Mr. Sood?

14 A. That may require money to help them secure players.

15 (Continued on next page)

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J4T9DAW2

Sood - Direct

1 Q. You then went on to say at page 2, line 20, "We're helping
2 Lamont out right so we're helping Lamont with his recruiting."

3 What were you telling Dawkins here?

4 A. That similar to Lamont Evans who was receiving money for
5 recruiting.

6 Q. Similar to what, sorry?

7 A. Sorry. The coaches may want money as well to recruit.

8 Q. And then at line -- page 2, line 24 you said, "So as Jeff
9 has mentioned, Marty has mentioned, we don't mind, we don't
10 mind helping coaches out if it helps the overall cause."

11 What did you mean by "overall cause," Mr. Sood?

12 A. That in return we'll be receiving clients.

13 Q. Now, when Mr. Dawkins said to you at -- further down on
14 that page, line 8, "Lamont is not even on the same stratosphere
15 as some of the other guys that I was just listing." Did you
16 understand what he meant by that?

17 A. That even though Lamont Evans worked for a good college
18 basketball program he had relationships with other coaches that
19 worked at better, high-rated programs.

20 Q. Then finally, Mr. Sood, you said a little further down,
21 line 20, "But that's -- still we want to know. So we want to
22 know where we want to use our money."

23 Do you see that?

24 A. Yes.

25 Q. What did that mean?

J4T9DAW2

Sood - Direct

1 A. Again, we wanted a list to know how much we should be
2 budgeting -- how much we required for the number of coaches he
3 was thinking of working with.

4 Q. Mr. Sood, after this call, did Mr. Dawkins, in fact, send
5 you a list of coaches?

6 A. Yes.

7 MR. SOLOWIEJCZYK: And if we could just publish for
8 the witness only, Ms. Bustillo, Government Exhibit 655.

9 Q. Do you recognize this document?

10 A. Yes.

11 Q. What is it?

12 A. It's an e-mail from Christian.

13 Q. To whom?

14 A. To myself.

15 MR. SOLOWIEJCZYK: Your Honor, the government offers
16 Government Exhibit 655.

17 MR. HANEY: No objection, your Honor.

18 MR. CHANEY: No objection, your Honor.

19 THE COURT: 655 will be received.

20 (Government's Exhibit 655 received in evidence)

21 Q. So, Mr. Sood, if you could just walk us through the header
22 of the e-mail. Who is it from?

23 A. It's from Christian. It's dated Wednesday, May 31, 2017.

24 The subject: Coaches. It's to my e-mail.

25 Q. Mr. Dawkins said these are my main guys. What does he list

J4T9DAW2

Sood - Direct

1 underneath that?

2 A. A list of coaches.

3 Q. So I just want to walk through the list with you briefly,
4 Mr. Sood.

5 It says Arizona, Sean Miller. Future hall of fame.
6 And then Emanuel Book Richardson superstar.

7 Did you know who Sean Miller was at that time?

8 A. The head coach of the University of Arizona.

9 Q. By this time had you met Emanuel Book Richardson?

10 A. Yes.

11 Q. What does it say about him?

12 A. Superstar.

13 Q. Going a little further down that first page there's a
14 reference to Creighton?

15 A. Yes.

16 Q. And there's someone named Preston Murphy?

17 A. Yes.

18 Q. Who did you understand that to be at the time?

19 A. Another superstar.

20 Q. Beyond that, what was his job?

21 A. Assistant coach.

22 Q. And a little further down it says USC?

23 A. Yes.

24 Q. Tony Bland. What was your understanding of who he was at
25 that time?

J4T9DAW2

Sood - Direct

1 A. Also an assistant coach.

2 Q. At which school?

3 A. USC, University of Southern California.

4 Q. Had Dawkins previously mentioned Bland to you?

5 A. Yes.

6 Q. And what did he say about Bland at that time?

7 A. It was a good relationship of his, well connected, and
8 had -- and had a great recruiting class coming up.

9 Q. Did you eventually meet with Mr. Bland in person?

10 A. Yes.

11 Q. Besides Tony Bland and Book Richardson, did you ever
12 personally meet with any of the other coaches on this list?

13 A. No.

14 Q. Mr. Sood, after receiving this list, what was your
15 reaction?

16 A. Seemed like a very impressive list.

17 Q. What did you do with the list after you received it?

18 A. I forwarded it to Jeff D'Angelo.

19 Q. Now, Mr. Sood, after this phonecall and after Mr. Dawkins
20 sent you this list, did there come a point soon after when
21 Mr. D'Angelo did agree to invest in the new company?

22 A. Yes.

23 Q. And did there come a time when you formalized an agreement
24 amongst yourselves with respect to that, his investment and
25 your investment?

J4T9DAW2

Sood - Direct

1 A. Yes.

2 Q. And Mr. Sood, to be clear, you also invested in this
3 company, correct?

4 A. I did. I was a shareholder.

5 MR. SOLOWIEJCZYK: So if you could publish just for
6 the witness Government Exhibit 623.

7 Q. Do you recognize that document, Mr. Sood, once you've
8 turned to it.?

9 I think it's also on your screen.

10 A. Yes, I do.

11 Q. What is it?

12 A. It's the shareholder agreement between myself, Christian,
13 and Jeff D'Angelo.

14 MR. SOLOWIEJCZYK: Your Honor, the government offers
15 Government Exhibit 623.

16 MR. HANEY: No objection, your Honor. Thank you.

17 MR. CHANEY: No objection.

18 THE COURT: 623 will be received.

19 (Government's Exhibit 623 received in evidence)

20 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could turn
21 to -- I think it's page 8 of 9 of the document, the second to
22 last page.

23 Q. Who are the signatories to the agreement, Mr. Sood?

24 A. Christian, Jeff, and myself.

25 Q. And what were you and Jeff D'Angelo listed as?

J4T9DAW2

Sood - Direct

1 A. Shareholders.

2 Q. Who did Mr. Dawkins sign on behalf of?

3 A. The company, Loyd, Inc.

4 Q. Did you meet in person to sign this agreement?

5 A. Yes.

6 Q. Where did that meeting occur?

7 A. In Manhattan, New York.

8 Q. And where in particular?

9 A. It was on a boat in downtown.

10 Q. Mr. Sood, if you could go back to I think it's the fourth
11 page of the document. It's the one ending in 0601.

12 MR. SOLOWIEJCZYK: If we could zoom in, Ms. Bustillo,
13 on the fifth provision, "Loan to Loyd, Inc."

14 Q. Under the terms of this agreement, who, if anyone, was
15 going to be providing a loan to the new company?

16 A. Jeff D'Angelo will provide \$185,000 I would provide 40,000.

17 Q. And at the time, Mr. Sood, did you agree to provide those
18 funds, what was your understanding about how they were going to
19 be used?

20 A. They would be used to give money to players, coaches, and
21 then also for general expenses.

22 Q. Directing your attention to the last page of the document.
23 There's a schedule here?

24 A. Yes.

25 Q. What percentage stake were you going to be receiving in the

J4T9DAW2

Sood - Direct

1 company?

2 A. Fifteen.

3 Q. And what percentage stake was Mr. D'Angelo going to be
4 receiving?

5 A. Thirty-five.

6 Q. How about Mr. Dawkins?

7 A. Fifty.

8 Q. What was your understanding regarding why Dawkins was
9 getting the greatest percentage?

10 A. Because he would be the president and also running the
11 company day-to-day.

12 Q. If you could go back to the sixth page of the document
13 which is the document ending in 0603, the page ending in 0603.

14 Looking at the bottom of the page, what city was
15 correspondence to be sent to Christian Dawkins?

16 A. Atlanta, Georgia.

17 Q. Where did you understand he was living at that time?

18 A. In Atlanta.

19 Q. Looking at the next page, where was correspondence to be
20 sent to Jeff D'Angelo?

21 A. New York.

22 Q. Where did you understand that he resided at that time?

23 A. New York.

24 Q. Mr. Sood, did you end up putting up part of the money
25 that's described in this agreement?

J4T9DAW2

Sood - Direct

1 A. I did. Ten thousand.

2 Q. Mr. Sood, by putting up that money and signing this
3 agreement formally becoming a shareholder in the company what
4 was your ultimate goal?

5 A. To recruit players as clients.

6 Q. Now, at the time you signed this agreement you mentioned
7 you met on a boat. Were you aware that that meeting was being
8 recorded?

9 A. No.

10 Q. Did you review a recording of that meeting before
11 testifying?

12 A. Yes.

13 Q. Generally, what was discussed at the meeting, Mr. Sood?

14 A. Just the strategy of the company, the players, the coaches
15 that we were going to focus on and how we would grow the
16 company going forward.

17 MR. HANEY: Your Honor, may we approach.

18 THE COURT: Yes.

19 MR. HANEY: Thank you, your Honor.

20 (Continued on next page)

J4T9DAW2

Sood - Direct

1 (At the sidebar)

2 MR. HANEY: My client has informed me if we don't take
3 a five-minute break something embarrassing is going to happen
4 to my client.

5 THE COURT: OK. We'll take a five-minute break.

6 MR. HANEY: I apologize, your Honor.

7 THE COURT: No problem.

8 (Continued on next page)

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J4T9DAW2

Sood - Direct

1 (In open court)

2 THE COURT: Ladies and gentlemen, we're going to take
3 a five-minute break. Don't discuss the case.

4 (Recess)

5 THE COURT: Mr. Solowiejczyk.

6 MR. SOLOWIEJCZYK: Thank you, your Honor.

7 Q. Mr. Sood, I believe we were talking about the meeting on
8 the boat when you signed the shareholder agreement. So, I was
9 asking you if you knew the meeting was being recorded?

10 A. No.

11 Q. Did you review a recording of the meeting before testifying
12 today?

13 A. Yes.

14 Q. Generally speaking, what was discussed during the meeting?

15 A. Just the business strategy, where Christian -- what
16 players, coaches he wanted to focus on and really what the
17 outlook of the company would be.

18 Q. Did you bring anyone with you to the meeting?

19 A. Yes.

20 Q. Who was that?

21 A. It was my assistant.

22 Q. What's her name?

23 A. Alicia Carroll.

24 Q. And did Mr. D'Angelo bring anyone to the meeting with him?

25 A. Yes.

J4T9DAW2

Sood - Direct

1 Q. Who was that?

2 A. One of his business partners named Jill Bailey.

3 Q. And did you later learn anything about Ms. Bailey?

4 A. Yes.

5 Q. What did you learn?

6 A. That she was an undercover FBI agent as well.

7 Q. Was Mr. Dawkins at the meeting?

8 A. Yes.

9 Q. And was Mr. Blazer there?

10 A. Yes.

11 MR. SOLOWIEJCZYK: So this is already in evidence,
12 your Honor, but we're going to play a couple of short excerpts
13 from it again.

14 THE COURT: Very well.

15 MR. SOLOWIEJCZYK: This is Government Exhibit 508A but
16 we're actually going to start at page 5, line 1 of that
17 transcript.

18 I will just give the jurors a moment to get there.
19 It's 508A and we're starting at page 5, line 1.

20 Ms. Bustillo, you can go ahead. Thank you.

21 (Video played)

22 Q. Mr. Sood, during this portion of the meeting who was being
23 discussed specifically?

24 A. PJ Dozier and Lamont Evans.

25 Q. Looking at page 6, lines 6 through 10, when Mr. Blazer

J4T9DAW2

Sood - Direct

1 said, "Because I just like when we were in Miami, I never
2 stopped. When you set that into motion with him and doing what
3 he needed to have done and I never backed away from that," what
4 did you understand that to mean at the time?

5 A. That Marty Blazer was paying Lamont Evans a monthly
6 retainer.

7 Q. What was your understanding at that time regarding whether
8 the new company that you were forming was going to have a
9 relationship with Lamont Evans?

10 A. It would.

11 Q. And what would that relationship entail?

12 A. Continue to pay that retainer to Lamont Evans.

13 Q. And what did you understand would be -- you would get in
14 return for that?

15 A. Access to his players.

16 MR. SOLOWIEJCZYK: If we could do another short
17 portion from this same exhibit and we're going to be turning to
18 page 11, line 14.

19 I'm just going to give the jurors a moment to get
20 there, Mr. Sood.

21 OK. Thank you, Ms. Bustillo.

22 (Video played)

23 Q. Mr. Sood, just going back, if you could take a look at page
24 12, lines 16 through 17. Mr. Dawkins asked, "what is he
25 getting Lamont?"

J4T9DAW2

Sood - Direct

1 And Blazer responded, "We're -- we just -- we're going
2 to do three, and he's gonna do one." What was that exchange
3 about?

4 A. At that time Lamont was getting three thousand from Marty
5 Blazer and Jeff and I was supposed to be giving a thousand.

6 Q. Had you spoken to Blazer and D'Angelo about that in advance
7 of the meeting?

8 A. Yes.

9 Q. Now, staying right around there, at page 12, lines 23 to
10 24, Mr. Dawkins said to you and the others, "Lamont is good,
11 but like he's not -- he's not the elite, elite dudes."

12 What did you understand Mr. Dawkins to be saying?

13 A. That even though Lamont Evans was a good coach he wasn't
14 sure if he was worth four thousand dollars a month.

15 Q. Did Dawkins provide you with any examples of coaches he
16 considered elite?

17 A. Yes.

18 Q. Who were those?

19 A. Emanuel Richardson as one.

20 Q. And what did you understand Dawkins was saying, if
21 anything, regarding the difference between a coach like Emanuel
22 Richardson and Lamont Evans?

23 A. The difference is Emanuel Richardson would have access to
24 multiple top-tier players every year.

25 Q. During this portion of the conversation was there any

J4T9DAW2

Sood - Direct

1 discussion regarding specific players that Mr. Richardson was
2 seeking to recruit?

3 A. A player by the name of DeAndre Ayton.

4 Q. What was your general understanding of what Dawkins was
5 saying about the recruitment of these players?

6 A. That it made more sense to pay Emanuel a retainer, monthly
7 fee, so we could get access to that caliber of a player.

8 Q. Now, Mr. Sood, the conversation that we're listening to
9 right now, did that occur on the same day that you signed the
10 Loyd shareholder agreement?

11 A. Yes.

12 Q. And in that agreement you agreed to invest some of your own
13 money, right?

14 A. Yes.

15 Q. At that time what was your understanding of what the
16 strategy was going to be going forward to recruit clients for
17 the business?

18 A. Provide money to coaches and families and the players as
19 needed.

20 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could go to the
21 next clip of this exhibit which we're going to start at page
22 16, line 13 of the transcript.

23 Q. Mr. Sood, if we could turn back to page 16 and focusing
24 your attention on lines 19 through 24.

25 When Mr. Dawkins said, "I say you do this to make it

J4T9DAW2

Sood - Direct

1 smarter and get the most bang so everybody can make money. If
2 you're just giving the guy four grand a month, I just don't
3 know what you're giving them four grand a month for. You know
4 what I'm saying?"

5 When the Dawkins said, "make it smarter and get the
6 most bang," what did you understand that to mean?

7 A. That he was really discussing instead of paying a monthly
8 retainer we should pay these coaches based on their potential
9 recruits and how those recruits can work with us.

10 Q. Turning to page 17, Mr. Sood. And at line starting at 6
11 Mr. Dawkins said, "So like a Book may need these two kids. If
12 he may need a grand amount to get something done for you. OK,
13 then you give it to them at that point." First of all, who is
14 Book again?

15 A. Emanuel Richardson.

16 Q. What did you understand Dawkins to be saying with respect
17 to Richardson?

18 A. That, again, if the -- if a coach needs money for a
19 particular recruit, then that's who we should be giving money
20 to.

21 Q. So then at page 17, line 13, Mr. Blazer said in response,
22 "I might do a little bit of both, though."

23 Did you understand what was meant by that?

24 A. Yeah. He wanted to pay both, a monthly fee and per
25 opportunity.

J4T9DAW2

Sood - Direct

1 Q. Mr. Sood, taking a step back for a moment, what was your
2 understanding of what Mr. Dawkins and Mr. Blazer were debating
3 here?

4 A. Really debating if, again, Marty seemed to be in favor of
5 wanting to pay both a monthly fee to a coach and/or specific
6 players whereas Dawkins -- Christian was saying let's be more
7 strategic and not just pay a monthly retainer to every coach
8 that we decide to work with.

9 Q. Was it your understanding that either Mr. Dawkins or
10 Mr. Blazer were saying that they did not support paying
11 coaches?

12 A. No.

13 Q. Finally, Mr. Sood, at page 18, lines 11 through 15 Dawkins
14 said, to the group, "And listen, if -- like a Book, OK, that
15 makes sense to give him four grand a month because he's got the
16 number one pick, he's go -- every year they got a top-ten
17 pick."

18 What did you understand Dawkins to be telling you
19 here?

20 A. That he could justify paying Emanuel Richardson four
21 thousand because of the caliber of players he has versus Lamont
22 Evans who may not.

23 Q. Mr. Sood, at the end of this meeting did Mr. D'Angelo
24 provide anything?

25 A. Yes.

J4T9DAW2

Sood - Direct

1 Q. What was that?

2 A. \$25,000.

3 Q. And was that in cash?

4 A. Yes.

5 Q. What was your understanding of what that money represented?

6 A. That was the initial -- that was his initial contribution
7 to the company.

8 Q. Who took the money that day?

9 A. I did.

10 Q. What did you do with the money?

11 A. I deposited at a Bank of America branch in New Jersey the
12 next day.

13 Q. My apologies, Mr. Sood. You may continue. Sorry.

14 A. No. I deposited the money the next day in the Bank of
15 America branch in New Jersey.

16 Q. What bank account did you deposit it into?

17 A. Loyd, Inc.

18 Q. Mr. Sood, once Loyd, Inc. was founded and a bank account
19 set up at Bank of America, did you have access to that account?

20 A. Yes.

21 Q. Could you see what transactions were occurring in the
22 account?

23 A. Yes.

24 Q. In real time?

25 A. Yes.

J4T9DAW2

Sood - Direct

1 THE COURT: Why don't we do this, Mr. Solowiejczyk.
2 Let's take our morning break, fifteen minutes after the hour.

3 Ladies and gentlemen, don't discuss the case. Please
4 be prepared to come back out at 18 after the hour.

5 (Continued on next page)

J4T9DAW2

Sood - Direct

1 (Jury not present)

2 THE COURT: Mr. Sood, you may step down. Folks can be
3 seated.

4 (Witness excused)

5 THE COURT: Anything for me?

6 MR. HANEY: No, your Honor.

7 MR. SOLOWIEJCZYK: Your Honor, just to let you know
8 that we're going to probably in the next hour-and-a-half going
9 to get to the call.

10 THE COURT: I was going to tell you guys come out --
11 you have ten minutes.

12 (Recess)

13 (Jury not present)

14 THE COURT: I see everyone is here. With respect to
15 the letters that were submitted yesterday, the government seeks
16 to preclude that section from Exhibit A to their letter which
17 is the recorded conversation, Government Exhibit 2T that
18 Mr. Code wants to include from pages 5, line 9 to page 6, line
19 15. With respect to that call between Mr. Sood and Mr. Code
20 I'm going to grant the government's motion to exclude the
21 portion of the call in which Mr. Code recalls a past
22 conversation he had with Mr. Dawkins. I find that Mr. Code's
23 statements do not fall under the state-of-mind exception to
24 hearsay and Rule 803.3. That rule specifically excludes from
25 its scope statements of memory to prove the fact remembered.

J4T9DAW2

Sood - Direct

1 The statements at issue here plainly fall within this category
2 to my mind. Mr. Code is recalling a past statement that he
3 made and offering the fact that he made the statement for its
4 truth, as recognized in Shepherd v. United States, reported at
5 290 U.S. 96 and United States v. DiMaria, reported at 727 F.2d
6 265 statements of memory face backwards, not forward.

7 I would also grant the government's motion to preclude
8 the portion of the testimony from recorded conversation 104T as
9 requested by Mr. Dawkins, a conversation between himself and
10 Munish Sood in which they discuss their relationship with
11 Mr. D'Angelo. I find that the statements are hearsay and
12 irrelevant.

13 So that constitutes the judgment of the Court with
14 respect to those two issues.

15 Mr. Moore, I understand you may have some additional
16 bases that you want to --

17 MR. MOORE: Yes, sir, your Honor.

18 First of all, I would respectfully disagree with the
19 Court's ruling but I understand the Court has ruled. I believe
20 that if you read this language carefully it's very clear that
21 he is telling Mr. Sood exactly what he is and he is not willing
22 to do and he is continuing to tell him, as he has told other
23 people, that he does not believe this coach's model works. I
24 believe that it is current as of the time of the making of the
25 statement and is forward-looking.

J4T9DAW2

Sood - Direct

1 Alternately, your Honor has not addressed the issue of
2 whether or not it's admissible under the catch-all exception of
3 the hearsay rule, Rule 807 and -- and I understand that your
4 Honor is making a decision now. Your Honor may revisit that
5 decision subsequent to other evidence that is offered later in
6 the case, correct?

7 THE COURT: That's correct. And the government
8 indicated a desire to put in some additional authority with
9 respect to the catch-all provision.

10 MR. MOORE: So, as I understand it right now your
11 Honor is not ruling on the catch-all exception issue; is that
12 correct?

13 THE COURT: That's correct.

14 MR. MOORE: Thank you.

15 THE COURT: OK. Are we ready for the jury? Can we
16 bring in Mr. Sood.

17 MR. HANEY: Your Honor, may I briefly also note my
18 catch-all exception as well.

19 THE COURT: Absolutely.

20 MR. HANEY: Thank you, sir.

21 MUNISH SOOD, resumed.

22 (Continued on next page)
23
24
25

J4T9DAW2

Sood - Direct

1 (Jury present)

2 THE COURT: Mr. Solowiejczyk.

3 MR. SOLOWIEJCZYK: Thank you, your Honor.

4 Q. Mr. Sood, where we left off we were talking about taking
5 the \$25,000 in cash that day and depositing it.

6 A. Yes.

7 Q. Directing your -- into the Loyd bank account?

8 A. Yes.

9 Q. Directing your attention to Government Exhibit 659. Do you
10 recognize that document?

11 A. Yes.

12 Q. What is it?

13 A. It's a deposit -- it's a receipt from a deposit, the
14 \$25,000 deposit.

15 MR. SOLOWIEJCZYK: Your Honor, the government offers
16 Government Exhibit 659.

17 THE COURT: Any objection?

18 MR. HANEY: No objection, your Honor.

19 MR. MOORE: No objection, your Honor.

20 THE COURT: 659 will be received.

21 (Government's Exhibit 659 received in evidence)

22 MR. SOLOWIEJCZYK: Publish that briefly, Ms. Bustillo.
23 You can take that down.

24 Q. Mr. Sood during the portion of the recording we just
25 watched what specific coaches, if any, did Mr. Dawkins propose

J4T9DAW2

Sood - Direct

1 working with?

2 A. Lamont Evans and Emanuel Richardson.

3 Q. Did there come a time soon after this meeting when you met
4 with Mr. Richardson in person?

5 A. Yes.

6 Q. Where did that meeting occur?

7 A. In Manhattan, New York.

8 Q. Who set up the meeting?

9 A. Christian.

10 Q. Was Dawkins himself present for the meeting?

11 A. No.

12 Q. Mr. Sood, if you could take a look at what's been marked
13 for identification as Government Exhibit 1632A.

14 A. OK.

15 MR. SOLOWIEJCZYK: If you could zoom in, Ms. Bustillo,
16 a little bit.

17 Q. Do you recognize this document?

18 A. Yes.

19 Q. What is it?

20 A. It's an e-mail -- sorry, text message exchange between
21 myself and Christian.

22 MR. SOLOWIEJCZYK: Your Honor, the government offers
23 Government Exhibit 1632A.

24 THE COURT: Any objection?

25 MR. HANEY: No objection, your Honor.

J4T9DAW2

Sood - Direct

1 MR. MOORE: No objection, your Honor.

2 THE COURT: 1632A will be received.

3 (Government's Exhibit 1632A received in evidence)

4 MR. SOLOWIEJCZYK: Ms. Bustillo, if you could just
5 publish the top half of this, if you could zoom in on that.

6 Q. So, Mr. Sood -- by the way when it says incoming who is
7 that?

8 A. That's myself.

9 Q. When it says outgoing?

10 A. That's Christian.

11 Q. So generally what do these text messages pertain to?

12 A. Just the meetings that we were going to be having that day
13 or the next day in New York City.

14 Q. And you said these texts are on June 19, right?

15 A. Yes.

16 Q. And the meetings occurred the next day?

17 A. Yes. The 20th.

18 Q. Looking at the bottom message, the message from Dawkins,
19 what was the schedule of meetings that he proposed?

20 A. 10 a.m. with Emanuel Richardson from Arizona. 1 p.m. with
21 Merl Code. And then 3 p.m. with Preston Murphy of Creighton.

22 Q. You said he was of Creighton. Was he a coach there?

23 A. Yes.

24 Q. Did the meeting with Preston Murphy end up happening that
25 day?

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Sood - Direct

1 A. No.

2 Q. What was your understanding regarding why not?

3 A. I believe either he was sick or a family member was sick.

4 MR. SOLOWIEJCZYK: Then zooming out, Ms. Bustillo.

5 Q. The bottom few messages of that page you said, "Should I be
6 there?" And then Mr. Dawkins responded, "Yes."

7 Going to the next page, said, "Make it --

8 MR. SOLOWIEJCZYK: Zoom in, Ms. Bustillo.

9 Q. "Make it smoother. You have already met Book. I don't
10 land until noon in Minnesota today."

11 What did you understand Dawkins to mean by "make it
12 smoother"?

13 A. That since I already met Emanuel Richardson I'd be able to
14 introduce him to Jeff D'Angelo at the meeting.

15 Q. Did the meeting that you were discussing take place?

16 A. Yes.

17 Q. Can you generally describe what occurred at the meeting?

18 A. Emanuel Richardson just talked about his position at
19 University of Arizona, the type of players on the current
20 roster and his recruiting, upcoming recruiting, his
21 relationship with Christian, and then how we could potentially
22 work together.

23 Q. And besides you and Mr. Richardson, was Mr. D'Angelo there?

24 A. Yes, he was.

25 Q. And this other business partner of his, was she there as

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Sood - Direct

1 well?

2 A. Yes.

3 Q. What was her name again?

4 A. Jill Bailey.

5 Q. Did you bring your assistant again?

6 A. Yes. She was there.

7 Q. Mr. Sood, what happened at the end of the meeting with
8 Mr. Richardson?

9 A. Jeff D'Angelo gave him an envelope of \$5,000.

10 MR. SOLOWIEJCZYK: Your Honor at this time the
11 government offers Government Exhibit 509B1, B2, B3, B4, and the
12 associated transcripts 509B1T, B2T, B3T and B4T.

13 THE COURT: Any objection?

14 MR. HANEY: No objection, your Honor.

15 MR. MOORE: Can we approach just one moment, your
16 Honor?

17 THE COURT: Sure.

18 (Continued on next page)

J4T9DAW2

Sood - Direct

1 (At sidebar)

2 MR. MOORE: Your Honor, I'm sure that Mr. Solowiejczyk
3 is going to argue that the statements of Mr. Richardson are
4 admissible as a coconspirator exception to the hearsay rule. I
5 would note that my client is not present for this meeting. My
6 client was not involved in this meeting. My client was not
7 brought in until after this meeting. And so I object under 403
8 grounds to the admissibility of this conversation against my
9 client.

10 MR. SOLOWIEJCZYK: Your Honor, a couple of points.
11 One, the statements between coconspirators in furtherance of
12 the conspiracy, it comes in regardless of whether Mr. Code had
13 or had not joined the conspiracy at that point, which I'm not
14 even going to deal with the merits of right now. But also,
15 importantly, your Honor, there's going to be evidence at this
16 trial that Mr. Code was made aware of specifically what
17 happened at this meeting, specifically that Mr. Richardson got
18 five thousand dollars.

19 THE COURT: It comes in as a coconspirator statement
20 so the objection will be overruled.

21 MR. MOORE: And I'll assume your Honor's ruling
22 against me on the 403 argument, because I believe the
23 prejudicial value of this evidence outweighs -- the prejudicial
24 nature of this evidence outweighs the probative value as it
25 pertains to my client, Merl Code.

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Sood - Direct

1 THE COURT: I am going to overrule that objection as
2 well. Again, this is just more of the same conversations
3 concerning who was going to get paid what and what coaches
4 could do, etc.

5 MR. MOORE: Thank you, your Honor.

6 (Continued on next page)

J4T9DAW2

Sood - Direct

1 (In open court)

2 THE COURT: Those exhibits will be received.

3 (Government's Exhibits 509B1, B2, B3, B4, 509B1T, B2T,
4 B3T and B4T received in evidence)

5 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could play
6 509B1 starting at page 1, line 1.

7 This is a June 20 meeting between Jeff D'Angelo, Jill
8 Bailey, Munish Sood, and Book Richardson. And I will just note
9 that to the extent that the transcript cover page says that
10 Christian Dawkins is there, that is incorrect. We would
11 request the jury disregard that.

12 THE COURT: Very well.

13 (Video played)

14 MR. SOLOWIEJCZYK: Pause for a second, Ms. Bustillo.

15 Q. So, Mr. Sood, it's a little -- it's blurred out but where
16 was Mr. Richardson seated during the meeting?

17 A. He was against the wall over there, I guess the wood,
18 whatever that is, the wooden, right there. Yes.

19 Q. And where -- there's a -- to his left or I guess to his
20 right there is somebody. Who is that?

21 A. That's Alicia Carroll.

22 Q. Where were you seated, do you remember?

23 A. To the left of her.

24 Q. And then the two people to the right of Ms. Carroll?

25 A. That's Jill Bailey and Jeff D'Angelo.

J4T9DAW2

Sood - Direct

1 MR. SOLOWIEJCZYK: Thanks, Ms. Bustillo.

2 (Video played)

3 MR. SOLOWIEJCZYK: Pause here, Ms. Bustillo.

4 Q. Mr. Sood, just going back to page 2 of the transcript for a
5 moment. And lines specifically starting at line 5. You said,
6 "But the goal is to get you to a place where you're comfortable
7 with us like you are with Christian and how we can help you
8 continue to recruit."

9 What did you mean by that, Mr. Sood?

10 A. That he should be -- he should get to a point where he can
11 ask us directly if he needs help with money for recruiting.

12 MR. SOLOWIEJCZYK: Ms. Bustillo, you can continue and
13 I believe we left off at page 4, line 2, approximately of the
14 transcript.

15 (Video played)

16 Q. Mr. Sood, turning back to page 6, starting at line 23, you
17 said to Mr. Richardson, "So you will help guide us both from an
18 economic perspective what you need and how you need it."

19 What did you mean by that, Mr. Sood?

20 A. That Emanuel Richardson will -- should let us know how much
21 money he needs and when.

22 Q. What was your sense at that time whether Mr. Richardson was
23 receptive to what you were proposing?

24 A. I believed he was open to it.

25 MR. SOLOWIEJCZYK: Ms. Bustillo, I think we're picking

J4T9DAW2

Sood - Direct

1 up at page 7, around line 8 or 9.

2 (Video played)

3 Q. Mr. Sood just going back to page 8 of the transcript,
4 there's a discussion here of somebody named DeAndre Ayton
5 starting at page 8, around line 20.

6 A. Yes.

7 Q. Who did you understand him to be at that time?

8 A. A -- potentially a number one draft pick.

9 Q. What school was he going to be playing basketball at?

10 A. University of Arizona.

11 Q. Mr. Sood, do you know if Mr. Ayton ended up being a number
12 one draft pick?

13 A. Yes.

14 Q. Page 8, starting at line 21.

15 Mr. Richardson said to you: It's not about well hey
16 we're going to be one of three, excuse my expression, F that,
17 DeAndre, this is what you're doing.

18 What did you understand Richardson to be saying here?

19 A. That instead of referring three agents to DeAndre he would
20 refer just one.

21 Q. And who was that going to be going forward?

22 A. Should be us if we're helping him with money.

23 MR. SOLOWIEJCZYK: I think we were around the bottom
24 of page 9, Ms. Bustillo.

25 (Video played)

J4THDaw3

Sood - Direct

1 MR. SOLOWIEJCZYK: All right. Ms. Bustillo, if we
2 could back to page 11.

3 Q. So, Mr. Sood, at lines 19 through 23 of page 11,
4 Mr. Richardson said to you and the group, "The goal is like,
5 again, and like I told Christian, get on campus. He's getting
6 Rawle Alkins. I'm telling you, he's getting Rawle Alkins.
7 There's, like, no ifs, ands about that."

8 Mr. Sood, what was your understanding who Rawle Alkins
9 was?

10 A. A player with Arizona.

11 Q. Is he on the Arizona team?

12 A. Yes.

13 Q. What did you understand Mr. Richardson to be saying with
14 respect to Rawle Alkins?

15 A. That if Christian shows up on campus, he'll make the
16 introduction, and pretty much guarantees that he'll be a client
17 of the firm.

18 Q. At page 12, at line 10, Mr. Sood, Emanuel Richardson said,
19 "I'm trying to take the risk out of the room." Did you
20 understand what that meant?

21 A. That if he's referring us as -- as the management company
22 for the player, he could -- he can control the environment by
23 keeping other agents and advisers away.

24 Q. Then finally, Mr. Sood, at page 14, there was a mention of
25 a player named Jahvon Quinerly. What was Richardson saying

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Sood - Direct

1 about his status at that time?

2 A. That he was considered top, top player in the country.

3 Q. Was that a player he was trying to recruit at that time?

4 A. Yes.

5 MR. SOLOWIEJCZYK: All right. So we're going to flip
6 a couple pages ahead to page 18, line 18. Ms. Bustillo, if you
7 could play that clip, please.

8 (Video played)

9 Q. Going back, Mr. Sood, at page 18 and focusing your
10 attention on the part starting at line 18, there's a discussion
11 here about Jahvon Quinerly, Mr. Sood, is that correct?

12 A. Yes.

13 Q. When Mr. Richardson said, "So, you know, I'm dealing with a
14 guy who says, hey, Book, it's 20 to get it done, and I'm like,
15 F, OK," what did you understand Mr. Richardson to be telling
16 you there?

17 A. That a handler for Quinerly was looking for 20,000 to get
18 him to commit to University of Arizona.

19 MR. SOLOWIEJCZYK: All right. Ms. Bustillo, if we
20 could skip ahead to page 23, line 1, of the transcript and the
21 associated recording.

22 (Video played)

23 Q. Mr. Sood, generally, during that portion of the
24 conversation, what was Mr. Richardson recounting for you?

25 A. That he was using his personal money to help fund his

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Sood - Direct

1 recruits.

2 Q. What, if anything, did he say about what Christian Dawkins
3 had told him about that?

4 A. Christian had suggested using someone else, outside of
5 using his own money.

6 MR. SOLOWIEJCZYK: OK. We're now going to move on to
7 509B2, and we're not going to go through the entirety of the
8 exhibit. We're just going to play a few excerpts of it.

9 Ms. Bustillo, if we could go to page 2, line 10, of
10 509B2.

11 (Video played)

12 Q. Mr. Sood, what specific player was Mr. Richardson talking
13 about during this portion of the meeting?

14 A. Rawle Alkins.

15 Q. Richardson referenced somebody's cousin. Who did you
16 understand that to be?

17 A. Rawle's cousin.

18 Q. What was your understanding regarding what Mr. Richardson
19 was telling you about the situation with the cousin?

20 A. That in order to get Rawle Alkins to commit to Arizona, his
21 cousin had moved out, and he would have to fund him about -- he
22 had to fund him \$2,000 a month.

23 Q. Looking at page 4, Mr. Sood, lines 1 to 4, when
24 Mr. Richardson said, "If anything happens, it's their word
25 against mine. And when it's cash, you know, I don't know what

J4THDaw3

Sood - Direct

1 they're talking about," did you understand what he meant by
2 that?

3 A. Yes.

4 Q. What did you understand that to mean?

5 A. That he shouldn't be paying these players and cash was not
6 traceable.

7 Q. What was your understanding at that time about what, if
8 anything, could occur if these payments were discovered?

9 A. He could be fired, Emanuel Richardson.

10 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could pick up
11 at page 5, line 24, of the transcript.

12 (Video played)

13 Q. Mr. Sood, what was Mr. D'Angelo generally proposing to
14 Mr. Richardson, if anything, during that portion of the
15 recording?

16 A. That D'Angelo would allocate a sum of money for him, and
17 then it's up to Emanuel Richardson to tell us if he'd want
18 monthly or he wants for specific recruits or both.

19 Q. What was Mr. Richardson's response to that idea?

20 A. He was -- he was interested. He was open.

21 Q. What, if anything, did Richardson offer with respect to
22 making introductions to players?

23 A. He would do that.

24 Q. At the end when he said, "As soon as they commit, it's a
25 phone call, or if I can't, can you guys FaceTime," did you

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Sood - Direct

1 understand what he meant by that?

2 A. That once the player was committed to the University of
3 Arizona, he would set up an initial meeting by phone call or
4 FaceTime.

5 MR. SOLOWIEJCZYK: Ms. Bustillo, moving on Government
6 Exhibit 509B3.

7 (Video played)

8 Q. Mr. Sood, turning to lines 5 through 8, when Mr. Richardson
9 said, "When I'm there, they're always going to defer to me. If
10 a question is asked, they're going to look at me, and I'm like,
11 that's what they know," what did you understand him to mean by
12 that?

13 A. That based on the relationship, he can direct players to
14 someone like us.

15 MR. SOLOWIEJCZYK: Finally, turning to 509B4.

16 (Video played)

17 Q. Mr. Sood, going back to the beginning of that call, at
18 page 1, what was Mr. Richardson saying, if anything, regarding
19 the nature of his relationship with Rawle Alkins?

20 A. That it was strong.

21 Q. Looking at page 2, line 23, when Mr. D'Angelo said, "We'll
22 do five now, and then, like you said, it's, you know, do what
23 you got to do," what did you understand Mr. D'Angelo to mean by
24 "we'll do five now"?

25 A. That he was going to give him \$5,000.

J4THDaw3

Sood - Direct

1 Q. And what did you see occur after that?

2 A. That he did give him \$5,000 in an envelope.

3 MR. SOLOWIEJCZYK: Ms. Bustillo, if we could turn
4 ahead to page 11, line 6.

5 (Video played)

6 Q. Mr. Sood, turning back to page 11, at line 7, you said,
7 "And, you know, everything we talk about stays here, so we're
8 very, very private about this stuff," what did you mean by
9 that?

10 A. That he should not be accepting money for us; otherwise, he
11 will get fired. He will be fired.

12 Q. Why were you telling him you were going to be private about
13 stuff?

14 A. Well, we shouldn't be giving and he shouldn't be passing it
15 on to the players as well.

16 Q. What was Richardson's response to that?

17 A. He said he trusted us.

18 MR. SOLOWIEJCZYK: All right. Ms. Bustillo, you can
19 take that down.

20 Q. Now, Mr. Sood, after your meeting with Mr. Richardson that
21 day on June 20, did you have a second meeting that day?

22 A. Yes.

23 Q. Who was that with?

24 A. Merl Code.

25 Q. Whose idea was it to meet with Merl Code?

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Sood - Direct

1 A. Christian Dawkins.

2 Q. Had you ever heard of Merl Code before that?

3 A. No.

4 Q. What did Dawkins tell you about Merl Code in advance of the
5 meeting?

6 A. That Merl was a -- was at Adidas in the shoe business. He
7 had relationships with coaches and players from the high school
8 level to the pro level.

9 Q. What, if anything, did Dawkins tell you about how Code
10 might be helpful to the new business that you were starting?

11 A. He could make introductions to both coaches and players.

12 Q. Generally speaking, what did you understand the purpose of
13 meeting with Merl Code was that day?

14 A. To get to know him and also determine if we can work
15 together.

16 Q. Mr. Sood, at the time of that meeting, did you know it was
17 being video recorded?

18 A. No.

19 Q. Did you review a copy of the recording before testifying?

20 A. Yes.

21 MR. SOLOWIEJCZYK: Your Honor, this recording's
22 already in evidence. We're going to play a couple of excerpts
23 from it.

24 THE COURT: What's the recording?

25 MR. SOLOWIEJCZYK: This is Government Exhibit 510A1 --

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Sood - Direct

1 sorry, yes, 510A1. This is a June 20 meeting between Munish
2 Sood, Merl Code, Marty Blazer, Jill Bailey, Christian Dawkins,
3 Jeff D'Angelo, and Alicia Carroll. And we're going to start at
4 page 1, line 1, of Government Exhibit 510A1T.

5 (Video played)

6 Q. Mr. Sood, Mr. D'Angelo said, "I'm pretty sure he left
7 happy, so..." and then Mr. Code responded, "He was happy."
8 What did you understand that to mean?

9 MR. MOORE: Your Honor, could we approach for a
10 moment, please?

11 THE COURT: Yes.

12 (Continued on next page)

J4THDaw3

Sood - Direct

1 (At sidebar)

2 MR. MOORE: Your Honor, I'm going to object to
3 Mr. Sood interpreting what my client meant. This is the first
4 time he's ever met my client. I don't believe that the
5 government has laid a sufficient foundation for his
6 interpretation. In addition, I would renew my earlier
7 objection with respect to the playing of this video because the
8 agent's comments -- the agent's statement, "He was happy," the
9 government is truly offering that as substantive evidence.
10 They are not offering it to simply put Mr. Code's statements
11 into context. That is an observation about an alleged
12 coconspirator.

13 So for those reasons, I renew my objection to this
14 video, and I also object to elicitation of any information from
15 Mr. Sood about the interpretation of what Mr. Code meant.

16 MR. SOLOWIEJCZYK: Your Honor, with respect to the
17 latter argument, in order to put in context the statement by
18 Code, "he was happy," we needed the prior statement by
19 D'Angelo, "I'm pretty sure he left happy." So I think that
20 deals with that arguments.

21 With respect to Mr. Sood's ability to interpret what
22 Mr. Code is saying, I think your Honor's already ruled on this.
23 He was a participant in the conversation, he has an
24 understanding of what's going on, and he proceeds from this
25 point forward to have an ongoing relationship with Merl Code in

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Sood - Direct

1 which they speak relatively frequently and understand each
2 other.

3 THE COURT: We've gone over all of this before. Even
4 if he's meeting for the first time and they're having a
5 conversation, he would be entitled to say what he believed the
6 other person meant to say. So the objection is overruled, and
7 the renewed objection to the prior ruling is also overruled.

8 MR. MOORE: I'm assume on cross-examination I'm free
9 to explore his relationship with Mr. Code prior to coming into
10 this meeting, correct?

11 THE COURT: Sure.

12 MR. MOORE: Thank you.

13 (Continued on next page)
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J4THDaw3

Sood - Direct

(In open court; jury present)

BY MR. SOLOWIEJCZYK:

Q. Mr. Sood, I think I had asked you, Mr. D'Angelo said, "I'm pretty sure he left happy, so..." and then Mr. Code responded, "He was happy." What did you understand that exchange to be referring to?

A. That Emanuel Richardson -- Jeff D'Angelo had given Emanuel Richardson \$5,000 and that Code was aware of it and he agreed.

Q. Now, Mr. Sood, what, if anything, did you learn during this meeting about the nature of the relationship between Merl Code and Emanuel Richardson?

A. That they had a preexisting relationship.

Q. During the meeting, what did Mr. Code tell you, if anything, about his prior work experience?

A. That he had worked before at Adidas. He was at Nike, and University of Arizona is a Nike school.

Q. What, if anything, did Code tell you about his relationships with coaches at Nike-sponsored programs?

A. That he still maintained them.

Q. Mr. Sood, based on the conversation that happened that day, how, if at all, did you believe that Mr. Code might be helpful to the business that you were starting with Christian Dawkins and Jeff D'Angelo?

MR. MOORE: Objection. Relevance.

THE COURT: Overruled.

J4THDaw3

Sood - Direct

1 A. That he would be able to introduce us to coaches and also
2 players.

3 Q. Now, at that time, Mr. Sood, what was your understanding
4 regarding what, if anything, Mr. Code was going to receive in
5 exchange for his assistance?

6 A. He was going to receive a retainer, a monthly fee.

7 Q. Had you spoken to Christian Dawkins previously about this
8 before the meeting?

9 A. Yes.

10 Q. Mr. Sood, during this meeting, what was discussed, if
11 anything, regarding how your company was going to be working
12 with college basketball coaches going forward?

13 A. That the company would be providing coaches with money so
14 the coaches can recruit and eventually give us access to those
15 players.

16 Q. Did Merl Code participate in those discussions, Mr. Sood?

17 A. Yes.

18 Q. All right. I want to review a couple of excerpts of this
19 recording with you, Mr. Sood.

20 If we could go to 510A3T, and we're going to pick
21 up -- we're going to pick up at page 2, line 24, of this
22 transcript.

23 Let's give the jury a minute to get there,
24 Ms. Bustillo. All right. Ms. Bustillo, please play when
25 you're ready. We're starting at page 2, I believe. Yes.

J4THDaw3

Sood - Direct

1 (Video played)

2 BY MR. SOLOWIEJCZYK:

3 Q. Mr. Sood, going back up to line 5, when Mr. Code said, "I
4 need to be visible and present, right, and if the kid is that
5 important, I need to be there. I need to fight off somebody
6 because the out of sight, out of mind is really in play here,"
7 what did you understand Mr. Code to be saying?

8 A. That he needed to have a presence on campus.

9 Q. For what purpose?

10 A. To -- to remind the player that, you know, he's been
11 helping or he's part of the team.

12 Q. Going a little further down at line 19, when Mr. Code said,
13 "And so if I'm not -- if I'm not there, we don't have a
14 presence there in some sense, I'm going to lose the kid," did
15 you understand what he meant by "a presence there in some
16 sense"?

17 A. To have either a family member or a coach that's looking
18 out.

19 MR. SOLOWIEJCZYK: If we could go to 510B3T,
20 Ms. Bustillo.

21 (Video played)

22 Q. Mr. Sood, going back to page 1 of the transcript, at
23 line 4, Mr. Dawkins said, "And then we can activate them as it
24 comes, because it could be -- like I told you, everybody
25 doesn't need to be a retainer-type, monthly-type deal." What

J4THDaw3

Sood - Direct

1 did you understand Mr. Dawkins to be referring to here?

2 A. That money could be provided for a specific player that a
3 coach may be looking to recruit.

4 Q. When he mentioned a monthly type or retainer type monthly
5 deal, did you understand what that meant?

6 A. Versus just paying someone, say, \$3,000 a month.

7 Q. When you say "someone," who do you mean?

8 A. I mean coach.

9 Q. Going a little further down, at line 19, Mr. Code said,
10 "That's our value to you guys," and then he went on to say,
11 "You aren't just randomly spending money." Did you understand
12 what he meant by that?

13 A. That he could help identify which will be the best option
14 for us, monthly versus specific opportunity with a coach.

15 Q. If you could take a look at Government Exhibit 510B5T.

16 Ms. Bustillo, I think we're picking up at page 1,
17 line 1, of that transcript.

18 (Video played)

19 Q. Mr. Sood, just going back to page 3 at line 19, when
20 Mr. Code said, "And they understand, because they're going to
21 use those moneys not necessarily to put in their pockets.
22 They're going to use those moneys to recruit kids," what did
23 you understand Mr. Code to be saying?

24 A. It's the coaches.

25 Q. What about them?

J4THDaw3

Sood - Direct

1 A. That they'll be using the money for recruiting.

2 Q. At page 4 when Mr. Code said, at line 4, "They typically
3 come out of their own pockets," and then "to take care of
4 rent," what did you understand that to mean?

5 A. That coaches from -- coaches, if they didn't have access to
6 money, would be using their personal funds for recruiting
7 purposes.

8 MR. SOLOWIEJCZYK: All right. If we could just turn
9 ahead a little bit to page 6, line 25.

10 (Video played)

11 Q. All right. Mr. Sood, at page 7 when Mr. Code said, this is
12 line 5, "So the coach route is great, but not necessarily. We
13 don't necessarily need to be paying everybody, every coach we
14 come into contact with, and we'll figure out who those people
15 are," what did you understand him to mean?

16 A. That we should be strategic in the coaches that we are
17 working with.

18 Q. When you say "working with," what do you mean, Mr. Sood?

19 A. In providing money for recruiting.

20 Q. Mr. Sood, at the end of that meeting, what, if anything,
21 did you observe Jeff D'Angelo provide to Merl Code?

22 A. Envelope with money.

23 Q. Mr. Sood, after the meeting that day, do you recall where
24 you went?

25 A. To the bank.

J4THDaw3

Sood - Direct

1 Q. Why'd you go to the bank?

2 A. Made a deposit in the Loyd Management account.

3 Q. Now, what was your understanding of what that money was
4 for?

5 A. For the company to use for recruiting and expenses.

6 Q. Did you make that deposit -- at which branch was it at?

7 A. It was in Manhattan.

8 Q. After that, where did you go?

9 A. Back to New Jersey.

10 Q. Now, Mr. Sood, after this meeting on June 20 with Emanuel
11 Richardson that we went over a few minutes ago, did there come
12 a point where you learned that Emanuel Richardson was seeking
13 more money from your new company?

14 A. Yes.

15 Q. How did you first learn about that?

16 A. From Christian.

17 Q. How did he tell you that?

18 A. By phone call.

19 MR. SOLOWIEJCZYK: Your Honor, at this time the
20 government would offer Government Exhibit 142 and the
21 corresponding transcript, 142T.

22 THE COURT: Any objection?

23 MR. HANEY: No objection, your Honor.

24 MR. MOORE: 403, your Honor.

25 THE COURT: Overruled on that basis. 142 and 142T

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Sood - Direct

1 will be received.

2 (Government's Exhibits 142 and 142T received in
3 evidence)

4 MR. SOLOWIEJCZYK: So this is a July 7, 2017, call
5 between Christian Dawkins and Munish Sood at 10:36 a.m. It's
6 Government Exhibit 142T. Seems like it may not be in the
7 binders, but it's also going to be on the screen as well.

8 (Audio played)

9 MR. SOLOWIEJCZYK: Your Honor, can I just have one
10 moment?

11 THE COURT: Yes.

12 MR. SOLOWIEJCZYK: My apologies, your Honor, we're
13 just getting a hard copy of one of the transcripts because it
14 was missing from the binder.

15 Q. All right. Mr. Sood, I want to go back to -- well, first
16 of all, what were you generally discussing with Mr. Dawkins
17 during this portion of the phone call we listened to?

18 A. Christian had requested \$15,000 from Jeff, and it seems
19 like Jeff really hasn't -- hadn't agreed to fund the 15,000 for
20 Emanuel Richardson.

21 Q. So looking at page 5, line 6, when Dawkins said, "I got to
22 talk to him about this shit with Book, because Book needs to
23 get some money up front to try to get this shit done for the
24 recruit," what did you understand Mr. Dawkins to be saying?

25 A. That Emanuel Richardson had requested \$15,000 for a

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Sood - Direct

1 particular recruit.

2 Q. When Dawkins said that Book needs to get the money -- to
3 get some money up front, what did you understand that to mean?

4 A. Like he needed it right now.

5 Q. Looking at page 5, lines 10 through 13, when Mr. Dawkins
6 said, "If Jeff doesn't say yes to this, I'm just gonna be like,
7 well, Jeff, your whole idea of everything is retarded. Like,
8 it doesn't make sense," based on what Mr. Dawkins was saying,
9 what was your understanding regarding whether he did or did not
10 support making the \$15,000 payment?

11 A. At that time it seems like Jeff hadn't agreed yet to
12 provide the 15.

13 Q. Mr. Sood, during this conversation, what was your own view
14 about whether Jeff should or should not provide the 15,000?

15 A. I thought it made sense because it was for a particular
16 recruit.

17 Q. Why was the fact it was for a particular recruit relevant
18 to you?

19 A. Because then it's more likely that we'll be -- we'll have
20 access to the player if he gets to the pro level.

21 Q. Who was going to give you that access?

22 A. Emanuel Richardson, the coach.

23 Q. Mr. Sood, prior to this occasion, had there been other
24 occasions when Jeff D'Angelo had provided payments to coaches
25 where it made less sense to you?

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Sood - Direct

1 A. Yes.

2 Q. When was that?

3 A. For example, when he paid Emanuel Richardson 5,000 in the
4 meeting in New York.

5 Q. Was that the meeting we reviewed a couple minutes ago?

6 A. Yes.

7 Q. Mr. Sood, before that meeting, did you know that
8 Mr. D'Angelo was planning to pay Mr. Richardson?

9 A. No.

10 Q. Mr. Sood, why did that payment of \$5,000 not make sense to
11 you?

12 A. Because I had no idea what the purpose of the money was.

13 Q. What do you mean by "purpose"?

14 A. Meaning what was it going to be used for, what which player
15 or something else?

16 Q. Right after that meeting, did you have a conversation with
17 Mr. Dawkins?

18 A. Yes.

19 Q. This is the June 20 meeting in New York, right?

20 A. Yes.

21 MR. SOLOWIEJCZYK: At this time, your Honor, the
22 government would offer Government Exhibit 104 and 104T.

23 THE COURT: Any objection?

24 MR. MOORE: No objection.

25 MR. HANEY: No objection, your Honor. Thank you.

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Sood - Direct

1 THE COURT: 104 and 104T will be received.

2 (Government's Exhibits 104 and 104T received in
3 evidence)

4 MR. SOLOWIEJCZYK: Can we have one moment, your Honor?

5 THE COURT: Yes.

6 MR. SOLOWIEJCZYK: Your Honor, if we could make a
7 brief request. It he appears one of the binders is missing the
8 transcripts, but that the other jurors, the jurors who have
9 screens, some of them have them in their binders -- or they
10 don't, no.

11 OK. All right. Then we're just going to have to do
12 it on the screens, and for the jurors that don't have them in
13 their binders, we'll provide a hard copy.

14 THE COURT: Very well. Everyone has access to a
15 screen, right?

16 JUROR: Yes.

17 MR. SOLOWIEJCZYK: The ones at the end, it's hard for
18 them to see, so I'm going to be giving them a hard copy, if
19 that's OK with your Honor.

20 THE COURT: OK.

21 MR. SOLOWIEJCZYK: Ms. Bustillo, when you're ready, if
22 we could play an excerpt of this recording.

23 (Audio played)

24 BY MR. SOLOWIEJCZYK:

25 Q. So, Mr. Sood, is this call directly after the meeting that

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Sood - Direct

1 you had with Book Richardson in New York City on June 20?

2 A. Yes.

3 Q. Generally, what were you discussing with Mr. Dawkins during
4 the call?

5 A. Just the fact that Emanuel Richardson received \$5,000, and
6 Jeff D'Angelo was very happy that he took the money.

7 Q. Mr. Sood, would it be fair to say that you and Mr. Dawkins
8 were making fun of Jeff D'Angelo a little bit during this call?

9 A. Yes.

10 Q. Why were you making fun of him?

11 A. Because he -- he gave him \$5,000, and I wasn't sure why he
12 gave the money to him.

13 Q. Looking at page 1, line 18, when you said -- sorry,
14 line 17, when you said, "Jeff is like F'ing high," what did you
15 mean by that?

16 A. That he was able to give Emanuel Richardson money, and
17 Emanuel Richardson took the money.

18 Q. Looking at page 2, lines 9 through 11 -- sorry, 8 through
19 10, I should say, when you said, "You know, he's like F'ing
20 dying, man. He's dying. Don't wake him up," what did you mean
21 by that, Mr. Sood?

22 A. That if he wants to keep funding coaches, then let him.

23 Q. At the time, Mr. Sood, what benefit did you see, if any,
24 from Jeff D'Angelo providing money to coaches for yourself?

25 A. Coaches be able to recruit and then, in return, give us

J4THDaw3

Sood - Direct

1 access to the players.

2 Q. Now, Mr. Sood, taking a step back, prior to this we just
3 listened to a call from July 7 with Dawkins regarding an
4 additional \$15,000 that Richardson was asking for from you?

5 A. Yes.

6 Q. Were you supportive or not supportive of making that
7 payment?

8 A. I was OK with that payment.

9 Q. Why were you OK with that payment?

10 A. Because that's for a specific recruit.

11 Q. What was the difference, in your mind, between the \$5,000
12 payment on June 20 and the later \$15,000 payment?

13 A. The 5,000, I didn't think had any purpose. I didn't -- I
14 needed clarity what the money was for; whereas 15 was for a
15 specific recruit.

16 Q. What was your understanding that if -- if Mr. Richardson
17 got that recruit to Arizona, what was your understanding how
18 that could benefit you and your new company, if at all?

19 A. It would give us access to that player and manage the
20 relationship.

21 Q. Mr. Sood, did you have an additional discussion with
22 Mr. Dawkins on the same day, July 7, 2017?

23 A. Yes.

24 Q. When I say "same day," I mean the day of the prior phone
25 call we listened to regarding the \$15,000 ask.

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Sood - Direct

1 A. Yes.

2 Q. Was that also by phone?

3 A. Yes.

4 MR. SOLOWIEJCZYK: Your Honor, at this time the
5 government would offer Government Exhibit 144 and 144T.

6 THE COURT: Any objection?

7 MR. HANEY: No objection, your Honor. Thank you.

8 THE COURT: 144 and 144T will be received.

9 (Government's Exhibits 144 and 144T received in
10 evidence)

11 MR. SOLOWIEJCZYK: I think many of the exhibits I'm
12 going to refer to are not in the jurors' binders, but they will
13 be on the screen, just so they know.

14 THE COURT: Very well.

15 MR. SOLOWIEJCZYK: Sorry, your Honor, we offer this.

16 THE COURT: I think it was already.

17 MR. HANEY: No objection.

18 THE COURT: 144 will be received.

19 MR. SOLOWIEJCZYK: This is a July 7, 2017, call at
20 10:52 a.m. between Christian Dawkins and Munish Sood. It's
21 Government Exhibit 144, and going to pick up at page 1, line 1.

22 (Audio played)

23 THE COURT: OK. Folks, it's 12:45, so we're going to
24 take our second break. Please be prepared to come back out at
25 1 o'clock. Do not discuss the case. (Jury excused)

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Sood - Direct

1 (Jury not present)

2 THE COURT: You folks can be seated.

3 Mr. Sood, you can step down.

4 Anything either side wants to raise?

5 MR. MOORE: Just very briefly, your Honor. I thought
6 we had an agreement with the government that words like
7 "retarded" were coming out of these calls and transcripts. We
8 had that discussion in Gatto. I thought we had that discussion
9 here, and I've seen that word repeated many times today. I
10 thought we had an agreement with the government that they were
11 going to delete those words from the calls and from the
12 transcripts.

13 Second, to your Honor's earlier point about the rule
14 of completeness, I would simply -- and I know that your Honor
15 did not rest your ruling on the rule of completeness earlier,
16 but I would respectfully cite to the Court two cases. One is
17 *United States v. Sutton*, which is a DC circuit case found at
18 801 F.2d 1346, and the second case is a Second Circuit case
19 which adopts the reasoning of the DC circuit case. That case
20 is *United States v. Johnson*, 507 F.3d 793, 796. It's a Second
21 Circuit case from 2007. Both of those cases hold that if a --
22 if the content of a recording, a writing, a document, ought to
23 in fairness be introduced, then the Court needs to go no
24 further. And just because something is inadmissible hearsay
25 does not mean that it should not be introduced into evidence

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Sood - Direct

1 if, in fairness, it ought to be included.

2 I simply bring those two cases to the Court's
3 attention. I decided to take a quick look and found those. I
4 will be -- I will tell the Court, candidly, I've not KeyCited
5 them. I've not looked for other Second Circuit cases because
6 I'm doing this a bit on the fly.

7 MR. HANEY: Your Honor, to that point, now that the
8 Court has heard the call that was referenced early, 104 and
9 104T, I would submit that now the Court has a better
10 understanding of the context, and you can hear what these two
11 gentlemen are talking about. They're laughing at Jeff
12 D'Angelo. They're laughing at the payment being made to the
13 coach. Munish Sood testified that he only wants to get veteran
14 players in the NBA. He's not talking about Book Richardson
15 sending student athletes from the University of Arizona to the
16 financial planning arm of Loyd Management. He's doing
17 something or wanting to do something that is completely lawful,
18 which is go get players that are veterans that Book Richardson
19 may have coached when he was an AAU coach or collegiate coach.

20 For him to later in that same conversation say, let's
21 get Jeff back and stroke him off a little more, I think, as
22 Mr. Moore has noted, it would violate the rule of completeness.
23 That particular statement of let's get him back and stroke him
24 off a little more, like we just did earlier, I think should be
25 heard by the jury, your Honor.

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Sood - Direct

1 MR. SOLOWIEJCZYK: Your Honor, what Mr. Haney said
2 that's what Mr. Sood testified. There's some discussion in the
3 recording about veterans. That's not what he testified to just
4 now. He testified about the distinction between the \$5,000
5 payment and the later \$15,000.

6 Regarding what Mr. Moore has said to say, we've
7 definitely gone back and forth on lots of recordings.
8 Mr. Haney asked me to take some stuff out. Over the weekend we
9 did. The statement "If Jeff doesn't pay this money, that's
10 retarded," it's an incredibly important statement. If you take
11 out the word "retarded," it won't have any meaning. Frankly,
12 it's a very important piece of evidence. I don't think there's
13 was anything untoward about including that statement. And the
14 defense counsel have had these recordings for a long time. So
15 if they had a specific issue with it, they should have taken it
16 up at that time.

17 THE COURT: I take it the concern is that the jury
18 will hold it against Mr. Dawkins for using that word.

19 MR. MOORE: Yes, sir. And then also hold it against
20 Mr. Code because they're friends. Mr. Dawkins, unfortunately,
21 I'm familiar with a lot of recordings, uses that word much more
22 frequently than I wish he did.

23 THE COURT: Again, if there was an agreement between
24 the parties concerning that language, I was not made aware of
25 that agreement. I don't know that there's anything to be done

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Sood - Direct

1 now about it. I don't know whether it's going to be used in
2 future transcripts.

3 MR. SOLOWIEJCZYK: It does come up again in some
4 recordings, your Honor.

5 MR. HANEY: Your Honor, we've had conversations for
6 more than a few months. We've been talking about this back in
7 the Gatto trial when there were transcripts and references that
8 my client was using language that would be potentially
9 prejudicial to the jury, and I believe we've worked to try to
10 redact as much as we can. However, we are getting rolling
11 transcripts, your Honor, at like midnight, right?

12 MR. SOLOWIEJCZYK: That's not true, your Honor.

13 MR. HANEY: That is true, your Honor. We are getting
14 information, and I'm sure counsel can verify this. We got a
15 letter motion last night at 11:30 in the evening. I had to
16 respond at midnight. So this is putting us in a very difficult
17 position being from out of jurisdiction, in hotel rooms
18 responding to motions that they're filing at midnight, your
19 Honor. So if a word slips through the cracks, I would ask that
20 they exercise their duties and obligations I think they owe as
21 officers of the court to honor the agreement that we had and
22 not to intentionally project what they know is going to be
23 inflammatory and prejudicial references in transcripts to the
24 jury.

25 MR. SOLOWIEJCZYK: Your Honor, we've provided all

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Sood - Direct

1 these transcripts quite some time ago, and I think we've --
2 because we expected defense counsel to try to make arguments
3 like this, we keep pretty good track of when we provided
4 things. They've had this transcript for a long time.

5 The statement, "If Jeff doesn't provide this money,
6 that's retarded," look, that's the word Mr. Dawkins used. And,
7 frankly, if you took out the word "retarded," you wouldn't
8 understand what he was saying. Sometimes there's important
9 pieces of evidence that have some language -- to be clear, your
10 Honor, these transcripts are full of curse words and other
11 offensive statements. We've tried our best to keep things out.
12 To give you an example, Mr. Haney was very adamant with us.
13 There was a reference to somebody having Tourette syndrome and
14 Mr. Dawkins mocking that person. We took it out because we
15 didn't think it was relevant.

16 So we're trying to be fair and reasonable. We're
17 giving the defense a list of exhibits we plan to offer the next
18 day. So if they have an issue, I'm not sure why they're now
19 raising it here.

20 THE COURT: Like I said, this issue's being brought to
21 my attention for the first time now. If there are particular
22 items that the parties don't agree on and you want me to rule
23 on, then bring them to my attention.

24 Mr. Haney, I'm in the same position as you are. I'm
25 receiving documents and motions at midnight and having to deal

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Sood - Direct

1 with them at 9 o'clock in the morning. That's just the way
2 trials go. My working assumption is that these issues are
3 being addressed as they come up and not that anyone on either
4 side is trying to sandbag the other.

5 MR. HANEY: Fair enough, your Honor. However, I do
6 want to note I've been trying to personally work these issues
7 out for three weeks, your Honor, or longer. We don't need to
8 address them at midnight the day before court. I don't think
9 that's appropriate.

10 Thank you, your Honor.

11 THE COURT: OK. 1 o'clock, don't be late.

12 (Recess)
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J4T9DAW4

Sood - Direct

1 THE COURT: Could we get Mr. Sood back in, please.
2 MUNISH SOOD, resumed.
3 (Continued on next page)

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J4T9DAW4

Sood - Direct

1 (Jury present)

2 THE COURT: Mr. Solowiejczyk.

3 BY MR. SOLOWIEJCZYK:

4 Q. I believe, Mr. Sood, we were talking about a July 7, 2017
5 phonecall between you and Christian Dawkins.

6 Government Exhibit 144. So, at page 1, Mr. Sood, what
7 concerns, if any, did you understand Mr. Dawkins to have
8 regarding D'Angelo at that time?

9 A. That Jeff D'Angelo's ability to relate to these players.

10 Q. And what was your understanding of whether D'Angelo had
11 asked to meet with some of the players?

12 A. Yes. D'Angelo had asked in particular to meet with the
13 players connected to Emanuel Richardson.

14 Q. What was Dawkins' view of this?

15 A. It didn't make sense.

16 Q. If you could turn to page 4, specifically line 22.

17 MR. SOLOWIEJCZYK: Ms. Bustillo, I'm not going to use
18 the recording.

19 Q. So page 4, line 22, you said, Mr. Sood "The process is you
20 give -- we're gonna give Book some money. Book is gonna do his
21 shit. When the kid is solidly part of our team, committed,
22 that's when guys like me and Jeff will meet him."

23 What did you mean by that, Mr. Sood?

24 A. Just the process. Give Book, Emanuel Richardson, the money
25 he needs to recruit. Once that's completed and if the -- if

J4T9DAW4

Sood - Direct

1 and when the player commits to us, then introduce Jeff and
2 myself to the player and/or family.

3 Q. So, looking at page 5, Mr. Sood, lines 18 to 20. You said,
4 "Because I want you to get this kid, and I wanna sign the big
5 kid if we need that 25, 50,000 later too."

6 Who were you referring to here, Mr. Sood?

7 A. DeAndre Ayton.

8 Q. What, if anything, did you understand regarding how
9 providing this money to Richardson could assist in getting
10 DeAndre Ayton as a client?

11 A. It could put us in a position, since we provided the funds
12 to Emanuel Richardson, it would position us to have access to
13 the player.

14 Q. To be clear, this \$15,000 that he was asking for, it was
15 for a different player?

16 A. Oh, yes. Sorry. I thought you meant 25.

17 Q. All right. So turning to -- Mr. Sood, after you had these
18 conversations with Mr. Dawkins did you talk to Mr. D'Angelo
19 about the \$15,000 payment to Richardson as well?

20 A. Yes.

21 Q. And after these discussions did Mr. D'Angelo ultimately
22 agree to provide the \$15,000 to Richardson?

23 A. He did.

24 Q. And was Mr. Dawkins a party to those discussions as well?

25 A. Yes.

J4T9DAW4

Sood - Direct

1 Q. Now, did Mr. D'Angelo provide the money to Richardson by
2 wire or by check?

3 A. No.

4 Q. How was it provided?

5 A. Emanuel Richardson was traveling and he ended up being in
6 New Jersey so he came to my office and met with myself and Jeff
7 D'Angelo.

8 Q. And was the \$15,000 provided to him at that time?

9 A. It was.

10 Q. In what form?

11 A. Cash.

12 Q. Mr. Sood, which recruit was this -- what was your
13 understanding of which recruit this \$15,000 was going to help
14 secure for Richardson?

15 A. Jahvon Quinerly.

16 Q. Prior to -- did you know the meeting at your office was
17 being recorded, Mr. Sood?

18 A. No.

19 Q. Prior to testifying, did you review a recording of that
20 meeting?

21 A. Yes.

22 Q. And who was present?

23 A. Myself, Jeff D'Angelo, and Emanuel Richardson.

24 MR. SOLOWIEJCZYK: Your Honor, at this time the
25 government would offer Government Exhibits 511B1, 511B2, 511B5,

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Sood - Direct

1 511B6, 511B7 and the associated transcripts 511B1T, 511B2T,
2 511B5T, 511B6T and 511B7T.

3 MR. HANEY: No objection. Thank you.

4 MR. MOORE: Same objection made previously under 403,
5 your Honor.

6 THE COURT: Very well. Over that objection those
7 exhibits will be received.

8 (Government's Exhibits 511B1, 511B2, 511B5, 511B6,
9 511B7, 511B1T, 511B2T, 511B5T, 511B6T and 511B7T received in
10 evidence)

11 MR. SOLOWIEJCZYK: Ms. Bustillo, when you're ready
12 we'll play 511B1.

13 This is a July 20 meeting between Emanuel Richardson,
14 Jeff D'Angelo, and Munish Sood.

15 (Video played)

16 Q. Mr. Sood, where is this meeting taking place?

17 A. In Princeton, New Jersey. My office.

18 Q. And what specific player was Richardson discussing during
19 this part of the meeting?

20 A. A player named Naz Reid.

21 Q. What was Richardson generally describing regarding Naz
22 Reid's recruitment process?

23 A. That he was recruiting. But LSU seemed to be more willing
24 to pay him to attend LSU. And then in return, since he had a
25 relationship with the coach at LSU, he would be offering him a

J4T9DAW4

Sood - Direct

1 job so this way that would ensure Naz Reid goes to LSU, not
2 Arizona.

3 Q. Who offered who a job?

4 A. The head coach of LSU offered Emanuel Richardson a job.

5 Q. Now, Mr. Sood, at the time what was your understanding
6 based on this conversation and prior conversations regarding
7 what financial -- what sorts of financial obligations assistant
8 coaches had?

9 A. Their obligation was that to from time to time or that the
10 families or recruits -- recruits of families would require
11 money and they would have to compete to make those payments to
12 get the kid to play at their university.

13 Q. Mr. Sood, based on the discussion that just occurred here,
14 were payments like that permissible under the rules?

15 A. No.

16 Q. The NCAA rules?

17 A. No.

18 Q. If we could turn to 511B2.

19 (Video played)

20 Q. Mr. Sood, during this portion of the meeting what players
21 were you specifically talking about?

22 A. Rawle Alkins.

23 Q. And then later on was there a discussion regarding certain
24 recruits?

25 A. Yes, Quinerly.

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Sood - Direct

1 Q. Now, with respect to Quinerly, what, if anything, did
2 Richardson tell you about Quinerly's mother?

3 A. That she was looking to move to Tucson and also looking for
4 a potential job.

5 Q. And looking at page 3, lines 1 to 5 when Richardson said,
6 "This is what I can do for you to put you in a situation to
7 move to Tucson. Once all of that stuff is in place, then she
8 was like yeah. Then, you know, we'll do it publicly."

9 Did you understand what Richardson meant by this?

10 A. That he would be able to find her a job and then once --
11 once they publicly announce that he's agreeing to play for
12 University of Arizona.

13 Q. Mr. Sood, to be clear, your understanding at this time was
14 the \$15,000 that was being requested was in connection with
15 Book Richard recruiting Jahvon Quinerly, correct?

16 A. Yes.

17 Q. So if we could go to 511B5.

18 (Video played)

19 Q. Mr. Sood, I want to go back. At page 1, at lines 19 to 21
20 you said, "And I like what you said last time, coach, which is,
21 you have to direct them. You can't give them options."

22 What were you referring to, Mr. Sood?

23 A. That he would be just directing them to us, to Loyd
24 Management.

25 Q. When you say "them," who do you mean?

J4T9DAW4

Sood - Direct

1 A. Meaning players.

2 Q. Mr. Sood, at this time what was your understanding
3 regarding the reason Mr. Richardson was going to be doing that?

4 A. Because we're giving him money to recruit.

5 Q. Now, going to page 2, Mr. Sood. Mr. Richardson
6 references -- this is at line 4, he says, "My analogy is always
7 the same. I'm -- you know, they don't know the difference if
8 you take them to a Benz dealer, BMW, and a Porche. They like
9 them all."

10 What was your understanding of the analogy that
11 Mr. Richardson was providing here?

12 A. That with his relationship he could direct the player.

13 Q. Was he going to give the player options or just one option?

14 A. No. Just direct them to us. To Loyd.

15 MR. SOLOWIEJCZYK: If we could turn to 511B6,
16 Ms. Bustillo.

17 (Video played)

18 Q. Mr. Sood, going back to page 1, when Mr. D'Angelo said,
19 "We, we're gonna do -- gonna do 15 for three months, right?
20 And that should help with the kids." What did you understand
21 him to mean?

22 A. That we were giving him fifteen thousand dollars for the
23 particular recruit.

24 Q. What did you observe happen during the meeting?

25 A. Jeff D'Angelo giving him an envelope of money.

J4T9DAW4

Sood - Direct

1 Q. Going a little further down -- actually focusing on that,
2 Mr. Sood, Mr. D'Angelo said, "We're going to do fifteen for
3 three months." Did you understand what he meant by "fifteen
4 for three months"?

5 A. That it would be five thousand a month.

6 Q. Sorry, Mr. Sood. You just said he gave him fifteen
7 thousand. What does the three months mean?

8 A. That Emanuel Richardson will give the money over three
9 months to the mother.

10 Q. Mr. Sood, who initially proposed providing this money to
11 Emanuel Richardson?

12 A. Christian.

13 Q. And when Richardson at page 1, line 15, "Just so you know I
14 put ten in of my own to give to the kid's mom," what did you
15 understand that to mean?

16 A. That he was using ten thousand of his personal money.

17 Q. For what?

18 A. To pay the player's mom.

19 Q. Then finally, Mr. Sood, you said at page 2, lines 7 to 8,
20 "If we get these three kids I mean we're on the road." What
21 did you mean by this?

22 A. That we'd be off to a great start with Emanuel Richardson
23 if he can refer us three clients.

24 Q. When you say "three kids," what did you mean?

25 A. Three recruits either that are heading there or that are

J4T9DAW4

Sood - Direct

1 already on the team.

2 MR. SOLOWIEJCZYK: If we could go to 511B7.

3 (Video played)

4 Q. Mr. Sood if you could take a look at page 2 and starting at
5 line 25 through the top of page 3, Richardson said, "The goal
6 is to -- when, 'Hey this kid's going to the NBA. Is he set,
7 Book? 'Yup, he's straight. Book, can I come in and talk to
8 him? No. It's done. Book, it's F'ing October. Damn, Book."

9 What did you understand Mr. Richardson to be referring
10 to here?

11 A. That he would keep other agents and advisers away from the
12 particular player.

13 Q. Mr. Sood, after this meeting with Mr. Richardson, did you
14 have any discussions with Christian Dawkins about what had
15 happened at the meeting?

16 A. Yes.

17 Q. And generally what did you tell him?

18 A. That we gave Emanuel Richardson \$15,000.

19 Q. Now, Mr. Sood, around this time in late July 2017 did you
20 learn that Jeff D'Angelo and Christian Dawkins were planning to
21 meet with other men's basketball coaches?

22 A. Yes.

23 Q. And where was that going to occur?

24 A. Las Vegas.

25 Q. Were you planning to attend those meetings with D'Angelo

J4T9DAW4

Sood - Direct

1 and Dawkins in Las Vegas?

2 A. No.

3 Q. Did you know who, if anyone, had been involved in setting
4 up the meetings in Las Vegas?

5 A. I believe --

6 MR. MOORE: Objection.

7 THE COURT: Overruled.

8 THE WITNESS: I believe both Christian and Merl Code.

9 Q. How did you learn Merl Code had been involved?

10 A. Christian mentioned it.

11 Q. Mr. Sood, did you participate in a phonecall with Merl Code
12 and D'Angelo in advance of those meetings in Las Vegas?

13 A. Yes.

14 Q. And Mr. Sood, at that time what was your understanding
15 regarding the reasons that Mr. Code was going to set up these
16 meetings for the group?

17 MR. MOORE: Objection.

18 THE COURT: Overruled.

19 THE WITNESS: The goal was to -- for the team to meet
20 with other coaches that would be interested in working with
21 Loyd Management.

22 Q. Let me just rephrase the question, Mr. Sood. What was your
23 understanding regarding whether Mr. -- why Mr. Code was setting
24 up the meetings for you?

25 MR. MOORE: Objection, your Honor. Asked and

J4T9DAW4

Sood - Direct

1 answered.

2 THE COURT: Sustained.

3 Q. Mr. Sood, I believe you previously testified that Mr. Code
4 was receiving a monthly retainer; is that correct?

5 A. Yes.

6 MR. SOLOWIEJCZYK: At this time, your Honor, the
7 government would offer Government Exhibit 301 and 301T.

8 THE COURT: Any objection?

9 MR. MOORE: No objection.

10 MR. HANEY: No objection, your Honor.

11 THE COURT: Those exhibits will be received.

12 (Government's Exhibits 301 and 301T received in
13 evidence)

14 MR. SOLOWIEJCZYK: We have hard copies to pass out to
15 the jury, with your Honor's permission.

16 THE COURT: Very well.

17 Q. This is a July 10, 2017 call between Munish Sood, Merl Code
18 and Jeff D'Angelo.

19 (Audio played)

20 MR. SOLOWIEJCZYK: If you could go to the next clip,
21 Ms. Bustillo.

22 (Audio played)

23 Q. Mr. Sood, at page 12, line 16 Mr. Code referenced
24 prioritizing a list of guys. And you should have some, you
25 know, some interaction with -- while you're out there. Do you

J4T9DAW4

Sood - Direct

1 understand what he's referring to?

2 MR. MOORE: Your Honor. Same objection as previously
3 made.

4 THE COURT: Overruled.

5 THE WITNESS: Coaches.

6 Q. Coaches for what?

7 A. Who may be seeking money for recruiting.

8 MR. SOLOWIEJCZYK: Can I have one moment, your Honor.

9 THE COURT: Yes.

10 (Counsel confer)

11 Q. Mr. Sood, I think you mentioned you didn't actually go to
12 the meetings in Las Vegas, right?

13 A. Yes. I did not attend.

14 MR. SOLOWIEJCZYK: You can take this down,
15 Ms. Bustillo.

16 Q. To your knowledge, did Mr. Code, in fact, set up the
17 meetings in Las Vegas with some of these coaches?

18 A. Yes.

19 Q. And what, if anything, did Christian Dawkins tell you about
20 the meetings?

21 A. That they were plenty -- there were a number of meetings
22 and a number of the coaches left with money.

23 Q. And do you recall him mentioning any specific coaches?

24 A. Tony Bland.

25 Q. Where did he coach again?

J4T9DAW4

Sood - Direct

1 A. USC.

2 Q. What was your understanding, if any, regarding whether Merl
3 Code had been paid by your company for setting up these
4 meetings?

5 MR. MOORE: Objection.

6 THE COURT: Overruled.

7 THE WITNESS: That he was being paid his monthly
8 retainer.

9 Q. Mr. Sood, soon after this call you had with Merl Code and
10 Jeff D'Angelo what, if anything, did you learn about certain
11 concerns Mr. Code had about Mr. D'Angelo?

12 A. There was a call where -- between Merl Code and Jeff
13 D'Angelo where there was someone in the background with Jeff
14 D'Angelo. So Merl Code was concerned about who was with Jeff
15 D'Angelo on a particular call.

16 MR. SOLOWIEJCZYK: Your Honor, at this time the
17 government would offer Government Exhibit 119 and 119T.

18 THE COURT: Any objection?

19 MR. HANEY: No objection, your Honor.

20 MR. MOORE: No objection.

21 THE COURT: 119 and 119T will be received.

22 (Government's Exhibits 119 and 119T received in
23 evidence)

24 MR. SOLOWIEJCZYK: This is a July 14, 2017 call
25 between Christian Dawkins and Munish Sood.

J4T9DAW4

Sood - Direct

1 And actually let me just -- your Honor, may I pass out
2 transcripts again?

3 THE COURT: You may.

4 MR. MOORE: Your Honor, while he's handing out these
5 transcripts may we approach for just one minute, please.

6 THE COURT: OK.

7 (Continued on next page)

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J4T9DAW4

Sood - Direct

1 (At sidebar)

2 MR. MOORE: Your Honor, we're not re-litigating again
3 the Gatto case and I believe this call's primarily about Brian
4 Bowen. So I'm not so sure I see the relevance of it.
5 Mr. Chaney wanted to add something.

6 MR. CHANEY: I think on 403 grounds bringing up a
7 statement in a conversation between Mr. D'Angelo and Mr. Code
8 that relates only to the Bowen situation and not to any of the
9 charged conduct in this case does not survive a 403
10 prejudice-versus-probative-value analysis.

11 MR. SOLOWIEJCZYK: Your Honor, just to give you a
12 little context. In the three-way call between Mr. Sood and
13 Mr. D'Angelo and Mr. Code that we just listened to a portion
14 of, there was a portion where Mr. D'Angelo appeared to
15 potentially be speaking to another person on the phone. It's
16 true. Part of that call related to paying this player named
17 Brian Bowen who was the subject of the Gatto trial.

18 Mr. Code later expressed concerns about the fact that
19 Mr. D'Angelo was on the phone, was talking to somebody else
20 while he was on that phonecall, concerns he was being a little
21 too open about all the things they were doing. Those concerns
22 applied to the entirety of the phonecall, including the part
23 that we offered. And it really just goes generally to
24 consciousness of guilt of evidence that Mr. Code knows
25 generally the types of things they're doing, whether it be

J4T9DAW4

Sood - Direct

1 making payments to players and families or paying coaches, he's
2 not allowed to be doing it, and he's reaching out to say Jeff
3 D'Angelo needs to be more careful.

4 MR. MOORE: He knows that you're not allowed to pay
5 players because he knows it's a violation of the NCAA rules.
6 In addition, Mr. Solowiejczyk didn't play that portion of the
7 call for this jury. And so I think, given his failure to play
8 that portion of the call, it should be 403ed out.

9 MR. SOLOWIEJCZYK: That was pursuant to an agreement
10 with the defense because they didn't want to get into this.

11 THE COURT: I'm going to allow it.

12 (Continued on next page)

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J4T9DAW4

Sood - Direct

1 (In open court)

2 MR. SOLOWIEJCZYK: Your Honor, we offer 119 and 119T.

3 THE COURT: It will be received.

4 (Government's Exhibits 119 and 119T received in
5 evidence)

6 (Audio played)

7 MR. SOLOWIEJCZYK: We can pause there, Ms. Bustillo.

8 Q. So, Mr. Sood, going back to page 5, at line 19 you said, "I
9 spoke to Jeff about, because Merl called me and I talked to
10 Jeff." Was it true that Merl Code had called you?

11 A. Yes.

12 Q. And why had Mr. Code called you?

13 A. Regarding the conversation he had with -- when Jeff
14 D'Angelo had someone else with him on the call or behind him.

15 Q. And then at line 8 to 12 on page 6, Mr. Dawkins said, "I
16 mean definitely even if you're going to call him, you don't
17 have to meet him in person or everything, but don't call him
18 and like be in the background talking to somebody else." What
19 did you understand Mr. Dawkins to be saying there?

20 A. That if you're -- we're trying to keep this thing quiet and
21 confidential. So he was concerned who else is Jeff sharing
22 this information with.

23 Q. Now, in addition, starting at the bottom of page 6,
24 starting at line 17, there was a discussion of somebody
25 named -- there was a discussion of a player. Which player was

J4T9DAW4

Sood - Direct

1 that?

2 A. Jeffrey Carroll.

3 Q. And who coached Jeffrey Carroll at that time?

4 A. Lamont Evans.

5 Q. When Mr. the Dawkins said to you, this is at line 22,

6 "Regardless of whatever the F he feels, if we're paying this

7 F'ing guy and we don't get Jeffrey Carroll, like what the F are

8 we doing this for."

9 What did you understand him to be saying?

10 A. If Lamont doesn't deliver Jeffrey Carroll, then we

11 shouldn't be paying Lamont Evans going forward.

12 Q. Now, Mr. Sood --

13 MR. SOLOWIEJCZYK: You can take that down,

14 Ms. Bustillo -- I'm sorry. Actually there's one more clip to

15 play. My apologies. At page 16. Sorry.

16 (Video played)

17 MR. SOLOWIEJCZYK: You can take that down,

18 Ms. Bustillo.

19 Q. Mr. Sood, you were discussing Lamont Evans with Mr. Dawkins

20 in that prior call; is that right?

21 A. Yes.

22 Q. Now, during the summer of 2017 what information did you

23 learn, if any, regarding Lamont Evans -- let me withdraw that

24 question.

25 In the summer of 2017 what, if anything, did you learn

J4T9DAW4

Sood - Direct

1 about Lamont Evans?

2 A. That he was -- he hadn't delivered a player and that --

3 Q. Did you learn anything about other sources that Mr. Evans
4 was accepting money from?

5 A. Yes. He -- I learned that he was accepting money from a
6 few other people including a sports agent.

7 Q. And what was the name of that sports agent?

8 A. Michael Cohen -- sorry. Seth Cohen.

9 Q. And did you know Seth Cohen at that time?

10 A. I did.

11 Q. How did you hear about the fact that Seth Cohen was paying
12 Lamont Evans?

13 A. Merl Code had brought it to my attention.

14 Q. Did you have a conversation with Seth Cohen about it as
15 well?

16 A. I believe I did, yes.

17 Q. Did there come a point when you spoke to Christian Dawkins
18 regarding your concerns with respect to Lamont Evans?

19 A. Yes.

20 MR. SOLOWIEJCZYK: Your Honor, at this time the
21 government offers Government Exhibit 128 and 128T.

22 THE COURT: Any objection?

23 MR. HANEY: No objection, your Honor.

24 MR. MOORE: No objection, your Honor.

25 THE COURT: 128 and T will be received.

J4T9DAW4

Sood - Direct

1 (Government's Exhibits 128 and 128T received in
2 evidence)

3 MR. SOLOWIEJCZYK: With the Court's permission,
4 request to hand out hard copies to the jury.

5 THE COURT: Very well.

6 MR. SOLOWIEJCZYK: Ms. Bustillo, we can play a portion
7 of this call when you're ready.

8 (Audio played)

9 Q. OK, Mr. Sood. I just want to go back over a couple things
10 that were said in this call. At page 2, line 21 to 23 you
11 said, "But Lamont scares me because he's taking money -- I told
12 you -- taking money from Seth."

13 Who was the Seth you were referring to again?

14 A. Again, Seth Cohen. He's an agent.

15 Q. Whether you said, "Lamont scares me," what did you mean by
16 that Mr. Sood?

17 A. That he's taking multiple -- he's taking from different
18 parties and promising the same player.

19 Q. What about the fact that Mr. Evans was taking money from
20 multiple parties concerned you?

21 A. The fact that is he pulling a fast one on us and then will
22 it be -- will people find out what's really going on with him.

23 Q. When you say "pulling a fast one," what do you mean?

24 A. Like is he taking our money and then delivering the kid to
25 someone else.

J4T9DAW4

Sood - Direct

1 Q. Mr. Sood, just on the topic of Seth Cohen, did you have
2 ongoing discussions with Seth Cohen around this time?

3 A. Yes.

4 Q. What were those generally regarding?

5 A. He wanted me to invest in his company.

6 Q. Did there come a point when you exchanged agreements
7 regarding that?

8 A. Yeah. We had draft agreements.

9 Q. Did you ever actually, to your knowledge, invest in
10 Mr. Cohen's company?

11 A. No.

12 Q. You said he was a sports agent; is that right?

13 A. Yes.

14 Q. Now, Mr. Sood, did you have any discussions with anyone
15 else around this timeframe regarding your concerns about Lamont
16 Evans?

17 A. Both Merl Code and Christian Dawkins.

18 MR. SOLOWIEJCZYK: At this time, your Honor, the
19 government would offer Government Exhibit 23 and 23T.

20 THE COURT: Any objection?

21 MR. HANEY: No objection, your Honor.

22 MR. MOORE: No objection, your Honor.

23 THE COURT: 23 and 23T will be received.

24 (Government's Exhibits 23 and 23T received in
25 evidence)

J4T9DAW4

Sood - Direct

1 MR. SOLOWIEJCZYK: Your Honor, again, permission to
2 pass out hard copies.

3 THE COURT: Very well.

4 MR. SOLOWIEJCZYK: Ms. Bustillo, we're going to start
5 at page 6, line 2 of the transcript.

6 This is a September 11, 2017 call between Munish Sood
7 and Merl Code.

8 (Audio played)

9 Q. Mr. Sood, what was Mr. Code generally advising you during
10 this call?

11 A. Not to be paying Lamont Evans.

12 Q. What was your understanding regarding what Mr. Code had
13 learned about Lamont Evans?

14 A. That he had received money from Seth Cohen as well.

15 Q. And to your knowledge did Merl Code and Seth Cohen have an
16 independent relationship from you?

17 A. I believe they did, yes.

18 Q. At page 6, lines 16 to 17 when Mr. Code said, "You know
19 what I'm saying or had been. And Christian had given him money
20 for a kid."

21 Did you understand what Mr. Code was referring to?

22 A. That Christian had given him money in the past for a
23 particular player.

24 Q. And then finally at lines 19 to 20 of page 6, when Mr. Code
25 said to you, "So, at some point in time it becomes where you're

J4T9DAW4

Sood - Direct

1 just using me versus it being a necessity for the business."

2 What did you understand Code to mean by the phrase,
3 "necessity for the business"?

4 A. That is he really using the money for recruiting or is he
5 using the money for other purposes.

6 MR. SOLOWIEJCZYK: You can take that down,
7 Ms. Bustillo.

8 Q. Now, Mr. Sood, directing your attention to August of 2017.
9 Did there come a point when you took a trip with Christian
10 Dawkins?

11 A. Yes.

12 Q. What was the purpose of that trip?

13 A. We went to meet potential recruits, clients, in Arizona and
14 then Las Angeles.

15 Q. And did you meet with any coaches during those trips?

16 A. We met with Emanuel Richardson and Tony Bland.

17 Q. Who else accompanied you for the trip?

18 A. Besides Christian, it was Jill Bailey.

19 Q. And who was Jill Bailey again?

20 A. The undercover agent.

21 Q. Who did you understand her to be at that time?

22 A. Jeff D'Angelo's business partner.

23 Q. Let's take the trips one at a time. So where specifically
24 in Arizona did you go?

25 A. Campus of University of Arizona.

J4T9DAW4

Sood - Direct

1 Q. And then after that did you go to California?

2 A. Yeah. We flew to L.A., Los Angeles.

3 Q. So with respect to the Arizona meetings, what was your
4 understanding of why you were going to Arizona?

5 A. To meet with Rawle Alkins.

6 Q. Did you end up meeting with Rawle Alkins?

7 A. No.

8 Q. Who did you meet with?

9 A. We met with his cousin named Rodney.

10 Q. Did you also meet with Emanuel Richardson during the trip?

11 A. Yes.

12 Q. Where did you meet with Richardson?

13 A. At a hotel.

14 Q. And were you aware that meeting was being recorded?

15 A. No.

16 Q. Have you reviewed a recording of that meeting before
17 testifying here today?

18 A. Yes.

19 MR. SOLOWIEJCZYK: Your Honor, at this time the
20 government offers Government Exhibits 518A through 518D and
21 518F and then also 518AT through 518DT and 518FT.

22 MR. HANEY: No objection.

23 MR. MOORE: Same 403 objection, your Honor.

24 THE COURT: Over that objection, those exhibits will
25 be received.

J4T9DAW4

Sood - Direct

1 (Government's Exhibits 518A through 518D and 518F and
2 518AT through 518DT and 518FT received in evidence)

3 Q. So this is 518A that we're going to be going through.

4 MR. SOLOWIEJCZYK: Ms. Bustillo, when you're ready you
5 can hit play.

6 (Video played)

7 MR. SOLOWIEJCZYK: If you can pause for one second.

8 Q. Who are we looking at right now, Mr. Sood?

9 A. (No response).

10 Q. Sorry. That's blocked.

11 MR. SOLOWIEJCZYK: Actually can you play a little more
12 Ms. Bustillo.

13 (Video played)

14 A. Emanuel Richardson.

15 MR. SOLOWIEJCZYK: Keep going, Ms. Bustillo.

16 (Video played)

17 MR. SOLOWIEJCZYK: Is it possible to skip ahead a
18 little bit to the portion where they're not talking to the
19 server anymore.

20 (Video played)

21 Q. Mr. Sood, what player were you discussing during this
22 portion of the meeting?

23 A. Rawle Alkins.

24 Q. Was he currently a player on the Arizona team?

25 A. Yes.

J4T9DAW4

Sood - Direct

1 Q. What specifically were you discussing with respect to Rawle
2 Alkins?

3 A. Who would help him make a decision which firm to work with
4 like Loyd Management.

5 Q. Who were you talking about that might be involved in that
6 decision?

7 A. Both Emanuel Richardson and Rodney, his cousin.

8 Q. So looking at page 1, lines 16 to 20 or page 2, lines 16 to
9 20 when Mr. Dawkins said, "So now I'm a tell you Rawle will
10 have a big part of his decision. I think Rodney, Rodney will
11 have some influence as well. As long as we don't have to deal
12 with the mom, I think we'll be fine." What did you understand
13 Dawkins to be saying?

14 A. That if the mother was not involved Rodney can help, he'll
15 help Rawle make a final decision.

16 (Continued on next page)

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J4THDaw5

Sood - Direct

1 BY MR. SOLOWIEJCZYK:

2 Q. A decision regarding what?

3 A. To which firm to -- to which adviser and agent to work
4 with.

5 MR. SOLOWIEJCZYK: All right. Turn to 518B, please,
6 Ms. Bustillo, 518B, as in boy.

7 (Video played)

8 BY MR. SOLOWIEJCZYK:

9 Q. All right. Mr. Sood, at page 1, lines 11 to 15,
10 Mr. Dawkins said, "Yeah, he's F'ing clueless, clueless, but
11 that's good for us because I showed him a breakdown of
12 everything he can -- I think he'll do what you tell him to do."
13 Right after that Mr. Richardson responded, "He will."

14 What did you understand that exchange to mean?

15 A. That Emanuel Richardson can direct him towards the company.

16 Q. And the "he," you're talking about?

17 A. Rawle Alkins.

18 Q. What did Dawkins say, if anything, regarding the role that
19 Rodney would play in this decision?

20 A. That if we have his support, he would be helpful as well.

21 Q. And "he" was Mr. Alkins' cousin?

22 A. Correct.

23 MR. SOLOWIEJCZYK: If we can go to 518C, please.

24 (Video played)

25 Q. Mr. Sood, just going back up to page 1, line 3, you

J4THDaw5

Sood - Direct

1 referenced, "That's how we get the 7-footer." Who was the
2 7-footer?

3 A. We're referencing De'Andre Ayton.

4 Q. And then you said a couple lines after that, Mr. Sood,
5 "Just remember what you said when we first saw you. You no
6 longer giving suggestions, you're telling them." Do you
7 remember that? What were you referring to, Mr. Sood?

8 A. The previous conversations with Emanuel Richardson where he
9 had suggested that going forward working with us, he would just
10 be recommending us, no one else.

11 Q. Mr. Sood, at this time what, if anything, were you seeking
12 from Richardson with respect to De'Andre Ayton?

13 A. An introduction.

14 MR. SOLOWIEJCZYK: If we can go to 518D, Ms. Bustillo.

15 (Video played)

16 Q. Mr. Sood, what player was generally being discussed during
17 this portion of the meeting?

18 A. De'Andre Ayton.

19 Q. What, if anything, was Richardson telling you about Ayton?

20 A. He's one of the best players he's ever seen.

21 MR. SOLOWIEJCZYK: If we could go to 518F.

22 (Video played)

23 MR. SOLOWIEJCZYK: Pause here, Ms. Bustillo.

24 Q. All right. Mr. Sood, just going back to the very beginning
25 of that clip, when Ms. Bailey said, "Thank you for hooking

J4THDaw5

Sood - Direct

1 things up," and then Richardson said, "I did my job," what did
2 you understand that exchange to be about?

3 A. Setting up a meeting with Rawle's cousin Rodney.

4 Q. Who do you believe was responsible for helping set up that
5 meeting?

6 A. Emanuel Richardson.

7 Q. At page 2, looking at lines 3 through 5, when
8 Mr. Richardson said, "I'm just telling you, that's what will be
9 powerful, and we all sit down and just like, OK, Book, this is
10 who I trust," what did you understand Mr. Richardson to be
11 referring to?

12 A. That he would have influence over Rawle to help make a
13 decision to work with us.

14 Q. After this meeting with Emanuel Richardson, did you, in
15 fact, meet with Rawle Alkins' cousin Rodney?

16 A. Yes.

17 Q. Prior to testifying today, have you reviewed a recording of
18 that meeting?

19 A. Yes.

20 Q. All right. Mr. Sood, I'm just going to ask you some
21 questions so you can give us a general summary of what
22 happened.

23 During the meeting, what did Rodney generally discuss
24 with you regarding his role in Rawle Alkins' life?

25 A. That -- that Rawle Alkins' mom had -- had him travel and

J4THDaw5

Sood - Direct

1 move down -- move to University of Arizona to stay with him and
2 manage him, and then he would work with Rawle once he turns pro
3 as well, and he will be part of his decision-making.

4 Q. Are you familiar with a term that's often used to describe
5 somebody like Rodney?

6 A. It's called a handler.

7 Q. Where'd you meet with Rodney, by the way?

8 A. Same hotel, right after the Emanuel Richardson meeting.

9 Q. Who else was there besides you and Rodney?

10 A. Jill Bailey and Christian Dawkins was there.

11 Q. What was the purpose of that meeting?

12 A. Again, to introduce ourselves, tell him what we do, and
13 then talk to him about him working with us.

14 Q. Based on the discussions you had that day with Richardson
15 and Dawkins, what, if anything, was your understanding
16 regarding what Rodney's role was going to be?

17 A. Rodney's role would be help influence Rawle to work with
18 us.

19 Q. Now, Mr. Sood, based on the discussion that you had with
20 Dawkins, Bailey, and Rodney, did you have a sense of whether
21 Dawkins and Rodney had met before?

22 A. I believe they'd met the day -- the night before.

23 Q. Do you know who originally introduced them?

24 A. Emanuel Richardson.

25 Q. Based on the meeting, the discussion that happened, what

J4THDaw5

Sood - Direct

1 was your understanding regarding whether Rodney intended to
2 recommend that Rawle work with you?

3 A. He seemed on board to recommend us.

4 Q. Did you get to meet with Rawle Alkins during that trip?

5 A. No.

6 Q. Do you know if Dawkins met with Alkins?

7 A. I believe he met him the night before.

8 Q. How do you know that?

9 A. He mentioned it.

10 Q. What did Rodney say, if anything, regarding whether you
11 could meet with Alkins in the future?

12 A. He said he would arrange a meeting next time we're back in
13 Arizona.

14 Q. During your discussion with Rodney, did Emanuel
15 Richardson's name come up at all?

16 A. Yes.

17 Q. What did Rodney tell you Richardson had said to him, if
18 anything?

19 A. That they were good people, and he would direct Rawle to
20 meet with us and potentially work with us.

21 Q. During the meeting, did Rodney tell you anything about any
22 concerns that Rawle Alkins had about this?

23 A. Rawle would ask what would -- what would this be -- what
24 would it be -- what would it be for -- what would Emanuel
25 Richardson get from this.

J4THDaw5

Sood - Direct

1 Q. Who did he say that to?

2 A. To the group.

3 Q. Let me take a step back, Mr. Sood. You had a conversation
4 with Rodney, right?

5 A. Yes.

6 Q. Did Rodney convey anything to you about what Alkins had
7 said to him?

8 A. Yes. What is -- what is in this for --

9 MR. HANEY: Objection. Object to hearsay.

10 THE COURT: Overruled.

11 A. What is in this for Emanuel Richardson?

12 Q. And at the end of the meeting, what did Rodney indicate
13 regarding whether he was going to recommend you?

14 A. He would.

15 Q. Now, Mr. Sood, after this meeting in Arizona, where'd you
16 go from there?

17 A. To Los Angeles.

18 Q. How did you get there?

19 A. We flew.

20 Q. Why were you going to Los Angeles that day, Mr. Sood?

21 A. To meet with Tony Bland.

22 Q. Your trip to Los Angeles, besides meeting with Tony Bland,
23 were you going there to meet with anyone else?

24 A. Yes. Tony Bland had set up meetings with a father of the
25 high school player who will be attending USC and a family

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1 member of another player.

2 Q. Had you met Tony Bland before this trip?

3 A. No.

4 Q. When you first got to LA, who did you meet with?

5 A. We met with the -- a father of a high school player who was
6 headed to USC by the name of Taeshon Cherry.

7 Q. That was the name of the player?

8 A. Yes.

9 Q. And you met with his father?

10 A. Yes.

11 Q. Who was present for that meeting?

12 A. Myself, Jill Bailey, and Christian and the father.

13 Q. What was your understanding about who, if anyone, had set
14 up the meeting with Cherry's father?

15 A. Tony Bland set up the meeting.

16 Q. Generally, what was discussed during your meeting with
17 Cherry's father?

18 A. Just the services we provided, how we could help them, and
19 in return, how Tony Bland spoke highly of us.

20 Q. What, if anything, happened at the end of the meeting?

21 A. Jill Bailey gave Christian Dawkins \$4,000 to give to the
22 father.

23 Q. Did you personally see Dawkins give the money to the
24 father?

25 A. No.

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1 Q. Now, during this trip, did there come a point when you met
2 with Tony Bland himself?

3 A. Yes.

4 Q. Do you recall where that occurred?

5 A. I was at a restaurant on campus of USC.

6 Q. Prior to the meeting, what, if anything, had Dawkins told
7 you about Bland?

8 A. That Tony Bland was assistant coach at USC, a couple of
9 good recruits coming, and well-connected on the West Coast.

10 Q. Mr. Sood, I believe you previously testified you were aware
11 Mr. Bland had met with Dawkins and D'Angelo in Las Vegas?

12 A. Yes.

13 Q. What was your understanding of what happened at that
14 meeting?

15 A. That Jeff D'Angelo gave Tony Bland money.

16 Q. What was your understanding of the purpose of the meeting
17 with Bland that day?

18 A. To introduce us to some of his players.

19 MR. SOLOWIEJCZYK: Your Honor, at this point the
20 government would offer Government Exhibit 521A through 521D,
21 and the associated transcripts, 521AT through 521DT.

22 THE COURT: Any objection?

23 MR. HANEY: No objection.

24 MR. MOORE: No objection.

25 THE COURT: 521A through D and the transcripts will be

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1 received.

2 (Government's Exhibits 521A through 521D and 521AT
3 through 521DT received in evidence)

4 BY MR. SOLOWIEJCZYK:

5 Q. So this is an August 31, 2017, meeting between Munish Sood,
6 Jill Bailey, Tony Bland, and Christian Dawkins.

7 Mr. Sood, before -- and you can publish it to the
8 jury, Ms. Bustillo.

9 Before we start, who were we looking at on the screen?

10 A. Tony Bland.

11 MR. SOLOWIEJCZYK: All right. You can begin playing,
12 Ms. Bustillo.

13 (Video played)

14 Q. All right. Mr. Sood, going back to the beginning of that
15 recording, you mentioned at page 1, line 7 and 9, you mentioned
16 meeting Taeshon's dad. Who was that again?

17 A. A high school player who had committed to USC.

18 Q. So then Dawkins talks about at page 2, lines 9 -- starting
19 around line 9, he says, "So one of the things that me and Tony
20 were discussing, I think it's important (unintelligible) this
21 situation (unintelligible) value out here. So I guess one of
22 the reasons why -- because all of the resources, whatever the
23 case may be, it's as clean as possible," then he went on to
24 say, "It's as clean as possible to go directly who them."

25 What did you understand Mr. Dawkins to be saying?

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1 A. It's cleaner, more straightforward just going to the
2 parents instead of going to Tony Bland.

3 Q. Was Tony Bland present at that conversation?

4 A. Yes.

5 Q. If you gave money to a family member in the manner that
6 Dawkins described, what was your understanding how, if at all,
7 that would be helpful to Tony Bland?

8 A. It would help Tony recruit the player.

9 Q. What if it was a player already on the USC team?

10 A. He can help them direct that player to us.

11 Q. When Dawkins said, "It's as clean as possible," did you
12 understand what he meant by the word "clean"?

13 A. That if the money's cash, it's not going to be able to be
14 tied back to anyone.

15 Q. But paying directly to the family versus playing through
16 Bland, what's clean about that?

17 A. That the coach can't get in trouble.

18 Q. Taking a look at page 2, lines -- starting around line 25
19 and then to the top of page 3, Bland said, "My part of the job
20 can be to get parents and to introduce them to Christian, say,
21 hey, I trust him. This is -- can vouch for him and even you
22 guys." What did you understand Bland to be offering to do
23 here?

24 A. Introduce us and -- to the players' parents.

25 Q. When you said "vouch for him," what did you understand that

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1 to mean?

2 A. That Tony trusts Christian.

3 Q. When Bland said at page 3, line 5, "And some guys like
4 Cherry, I can say, this is what you're doing," what did you
5 understand that to mean?

6 A. That he could direct -- in this case, he can direct Cherry
7 to work with Christian and us.

8 Q. At page 5, Mr. Sood, looking at line -- around line 18,
9 Bland said, "We have a couple opportunities where you've got us
10 a gold mine over here. So we've had this opportunity before,
11 but it's not been this clean. And from a guy that I'm
12 really -- that I trust."

13 I just want to take that statement a piece at a time.
14 When Bland said, "We have a couple of opportunities where
15 you've got us a gold mine over here," did you understand what
16 he meant by gold mine?

17 A. Potential players.

18 Q. When Bland said, "We've had this opportunity before, but
19 it's not been this clean," what did you understand that to
20 mean?

21 A. Access to money.

22 Q. Bland mentioned having trust. What did you understand him
23 to mean when he talked about trust?

24 A. That he trusts Christian.

25 MR. SOLOWIEJCZYK: Your Honor, this might be a good

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1 point to break.

2 THE COURT: Yes, it's almost 2:30.

3 So, ladies and gentlemen, we'll break for the day.

4 Please have a pleasant evening. Please do not read anything or
5 watch anything you may see in the media about the case. Please
6 do not discuss the case.

7 We'll get started promptly tomorrow at 9:30. Have a
8 pleasant night.

9 (Jury excused)

10 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Mr. Sood, you may step down.

3 Everyone be seated.

4 About how much more do you think, Mr. Solowiejczyk?

5 MR. SOLOWIEJCZYK: Not much at all, your Honor.

6 Probably about ten minutes at most.

7 THE COURT: Any other issues that the parties wish to
8 raise?

9 MR. MARK: Last night there was a motion that was
10 filed by defendant Code's counsel related to two witnesses that
11 he intends to call and a request for a ruling on admissibility
12 of certain evidence. We will file a written response to that.
13 I mean, largely, it looks like most of that testimony that he
14 seeks to admit is plainly hearsay testimony that would be
15 inadmissible, but we'll write specifically on that.

16 In connection with that motion, though, we asked and
17 made a request for 3500 material of the defense for their notes
18 of conversations with those witnesses, largely because it's
19 incredibly important to flesh out what these people are going
20 to testify about, which is not that clear in the motion that
21 was made by defendant Code. And in responding to that request
22 that we made of Code's counsel, they basically, it seemed to
23 be, implicitly acknowledging that they had rough notes of those
24 conversations, but they thought that they didn't have anything
25 that was 3500 material. As your Honor knows, in this district

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1 we don't play too cute with the rules of what 3500 material
2 requires. We produce our notes, we produce memorandums of our
3 notes, and that's the practice that we follow.

4 In response to that request, defendant Code's counsel
5 said that they thought they didn't need to produce those, and
6 we cited to him a case from the Second Circuit, *U.S. v. Scotti*,
7 that particularly outlines the procedure when it is doubtful or
8 there is a question of whether notes are producible. And that
9 Second Circuit case, it's 47 F.3d 1237, Second Circuit case
10 from 1995, specifically says that when the notes are subject to
11 discovery and there's a question of whether they're
12 discoverable, a proper procedure is for those notes to be
13 submitted to the trial court for an *in camera* review to
14 determine whether they are discoverable. And it also states
15 that the Court may, in its discretion, consider extrinsic
16 evidence in deciding whether the notes qualify as a witness
17 statement under 3500.

18 So as we let defendant Code's counsel know, we are
19 specifically requesting your Honor to do an *in camera* review of
20 those notes to determine whether they are producible under the
21 Jencks Act.

22 THE COURT: Mr. Moore.

23 MR. MOORE: Yes, your Honor, I find it somewhat
24 interesting that the government takes a position that these
25 documents are producible under the Jencks Act because if you

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1 read the Jencks Act, 18 U.S.C. Section 3500, it only deals with
2 the production of materials by the government. It does not
3 address the production of any materials by any defense attorney
4 for any purpose whatsoever. It is completely silent as to
5 that.

6 I asked the government if they had any case law on
7 point that dealt with the production by defense counsel of
8 material to the government. They cited me no such case. The
9 *Scotti* case that they cited deals with a procedure for the
10 government to produce information *in camera* to a district judge
11 for the purpose of determining if it is 3500 material. There
12 is no 3500 material that applies to defense counsel. 3500
13 simply does not apply.

14 However, just for the purpose of completeness,
15 Rule 26.2 addresses the production of witness statements, both
16 by the government and the defense. And Rule 26.2's definition
17 of a statement is a little different than the Jencks Act
18 definition of a statement. It defines a statement as a written
19 statement that the witness makes, signs, or otherwise adopts or
20 approves -- we do not have that here, I will tell you that as
21 an officer of the court -- a substantially verbatim,
22 contemporaneously recorded recital of the witness' oral
23 statements that is contained in any recording or any
24 transcription of any recording. The plain language of that
25 Rule says if you record a witness, actually record their

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1 statement by means electronically, then you must produce the
2 recording or a stenographic transcription of that recording or
3 the witness' statement to a grand jury, however taken or
4 recorded, or transcription of such a statement. That,
5 obviously, does not apply here.

6 I don't think --

7 THE COURT: Does it have to be recorded? Can it be
8 written? What if you wrote -- had really good note-taking
9 skills and had substantially verbatim accounts of what those
10 witnesses told you?

11 MR. MOORE: I don't, but if I were a government
12 attorney, then that clearly would apply for 26.2 -- excuse me,
13 that would apply for the Jencks Act, 18 U.S.C. 3500, which does
14 not apply to us as defense counsel.

15 According to the rule, the rule says -- first of all,
16 we don't have a written statement made by the witness. Second,
17 we don't have a substantially verbatim contemporaneously
18 recorded statement. The rule requires that you have a recorded
19 statement, recorded by means of audio or video recording, and
20 then create a transcript. At least that appears to me to be
21 the plain language of the rule.

22 That's why I asked the government for any case law in
23 support of their rather novel position that the Jencks Act
24 applies to defendants. They provided me with no such case law.
25 I asked them if they had any case law that related to

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1 Rule 26.2. They have provided us with no case law.

2 I will tell you, as an officer of the court, that I
3 didn't take notes of a brief discussion that we had on the
4 phone with Mr. Mowery the other day, and I have not talked to
5 Ms. Tutwiler. I believe that Mr. Mathias has spoken to
6 Ms. Tutwiler, I do not believe he took any notes. Mr. Chaney
7 took very brief notes of a conversation that we had with
8 Mr. Mowery on -- excuse me, with Warren Broughton on Sunday,
9 and I don't believe that it's substantially verbatim. But if
10 your Honor chooses or asks -- if your Honor wants us to produce
11 them *in camera*, then we'll produce them to you *in camera*.
12 Mr. Haley is no longer part of this team. I understand he may
13 have had discussions with them. I don't believe he has any
14 notes.

15 MR. MARK: Your Honor, I assume Mr. Moore is familiar
16 with, since he's cited Rule 26.2, which is obviously on point,
17 the reason we refer to the Jencks Act is the advisory committee
18 notes specifically make reference that Rule 26.2 is designed to
19 place disclosure of prior relevant statements of a defense
20 witness in the possession of the defense on the same legal
21 footing as in the disclosure of prior statements of prosecution
22 witnesses in the hands of the government under the Jencks Act.
23 That's from the advisory committee notes, Rule 26.2 in 1979, a
24 long time ago.

25 So since there clearly are a number of sets of notes,

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1 including by current and prior counsel, we so -- including by
2 Haley who is -- counsel Haley, who is also counsel of record,
3 we would think that all of those notes are at least potentially
4 discoverable, and we just request that they be submitted for *in*
5 *camera* review for the Court's determination of whether they are
6 discoverable or not.

7 THE COURT: OK. I haven't read the committee notes,
8 but I do know that it's customary for defense lawyers here to
9 turn over 3500 materials when they call witnesses. But given
10 that case law, Mr. Moore, do I need to look at this stuff, or
11 would you agree that the notes that you have, strictly
12 speaking, are in the nature of 3500 materials and just turn it
13 over to the government?

14 MR. MOORE: First of all, I don't have Mr. Haley's
15 notes. Mr. Haley is in South Carolina. He has not been a
16 party to this case. And, apparently, Mr. Mark didn't listen to
17 what I said. I said I do not know if he has notes or not. I
18 can speak to you *in camera* about why he's no longer a part of
19 the defense team if your Honor wishes me to do that. I don't
20 want to do that in open court. I doubt very seriously that he
21 has notes.

22 MR. MARK: Your Honor, he's still counsel of record
23 for this case. So to the extent that he has notes, I'm sure he
24 can email them over to your Honor and Mr. Moore.

25 THE COURT: I think, in an overabundance of caution, I

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1 have not relieved Mr. Haley from this case, so as far as I'm
2 concerned, he's still counsel of record. I believed that he
3 would be counsel at this trial. If he has -- well, I would
4 direct you, Mr. Moore, or one of your team, to contact
5 Mr. Haley and produce to you what notes he may have of
6 conversations with those two witnesses.

7 MR. MOORE: Could we approach for just one moment so I
8 can speak at sidebar about this?

9 THE COURT: All lawyers or just --

10 MR. MOORE: Just the lawyers.

11 (Page 897 SEALED)

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(At sidebar)

MR. MOORE: I can say this back on the record, I don't agree that what we have is 3500 material, but I'd probably prefer to turn them over to your Honor *in camera*. It will take you about two minutes to read it, if that.

THE COURT: If I can read it.

MR. CHANEY: About ten seconds.

MR. MOORE: Assuming you can read it. I think if you look at it, you'll understand why I don't think it's substantially verbatim.

THE COURT: OK.

(In open court)

MR. MOORE: I would ask that that sidebar be sealed, your Honor.

THE COURT: Any objection?

MR. MARK: No objection.

THE COURT: OK. That sidebar will be sealed, subject to any motion by either party to move to unseal.

So, Mr. Mark.

MR. MARK: Just one thing. I think this is not something we can actually resolve right now, but I just want to tee it up for your Honor because it's been a continuous issue, which is the defense request for the testimony of certain FBI agents. As you know, they made a *Touhy* request. We told them we were going to file motions *in limine* geared towards most of

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1 it. Your Honor issued an *in limine* ruling precluding the brunt
2 of that, the requested testimony. We then asked, in light of
3 that ruling, if there was any potentially admissible testimony
4 that the defense wanted to obtain from any of these four FBI
5 agents that they had subpoenaed, and that was last week.

6 We just received a response during the trial day today
7 of what that material that they seek to elicit from those
8 agents is. It seems to us to all be inadmissible, so we'll
9 file a written response to your Honor. I'm highlighting that
10 mainly because we would, obviously -- if your Honor was
11 considering another way, we'd have to make those witnesses
12 available, but we don't think it's going to come to that,
13 because we really don't think there's any admissible testimony
14 that they have or that they're seeking from these agents.

15 THE COURT: OK.

16 MR. MOORE: I would simply say, your Honor, that, as I
17 believe I said, I felt like I needed to preserve my position
18 until I saw what evidence the government presented,
19 particularly through Mr. Blazer. I believe he ended -- we came
20 very close to ending the day Friday on him, and we have spent a
21 lot of time dealing with other issues this weekend. But I
22 think that it is interesting, since the government never
23 responded to my February letter and never responded to my March
24 letter, that now they complain that I'm dilatory, but we will
25 address whatever they say.

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1 THE COURT: I didn't understand Mr. Mark to be
2 complaining that you were dilatory, but --

3 MR. MARK: No, I was just saying that this issue is
4 now before us at this point in time, and I wanted to give you a
5 heads-up.

6 And as to the responses, we have continually been
7 engaged with and responded to them. To the extent he has an
8 issue with FBI's procedure, that's an issue with the
9 Administrative Procedure Act and one that he can take up if he
10 thinks that that was not complied with.

11 THE COURT: Very well. Unless there's anything more
12 that the parties want to raise now, we can take five minutes
13 and reconnoiter.

14 MR. MOORE: Yes, sir.

15 THE COURT: Thank you.

16 (Recess)

17 THE COURT: Just wanted to touch base quickly on the
18 proposed charges. Obviously, I'm going to have some
19 boilerplate charges with respect to general requests in the
20 indictment, what is evidence, so forth, and boilerplate charges
21 with respect to duty to deliberate and what is evidence and how
22 to -- how to evaluate the evidence.

23 With respect to the substantive charges here, we have
24 a lot of recent experience here in the Southern District not
25 only with the Gatto case but with a number of New York State

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1 public corruption cases, including Valerie -- Judge Caproni's
2 case in Percoco and Judge Kimba Wood's case in Skelos. So it
3 appears as though a lot of this ground has already been plowed.
4 I note that the government's proposed charges hew pretty
5 closely to that authority and to Judge Kaplan's instructions in
6 the Gatto case.

7 A couple of questions that I had concern the bribery
8 versus gratuity theory. I take it the government is going to
9 be arguing both?

10 MR. MARK: That's correct, your Honor, and that's
11 what's alleged in the indictment.

12 THE COURT: With respect to the Travel Act charge, the
13 government's theory there is that they violated any one of a
14 number of different state -- do we, strictly speaking, need to
15 go down that road?

16 MR. MARK: I don't think we need to go down the road
17 of parsing --

18 MR. SOLOWIEJCZYK: I'm sorry. I don't understand the
19 question.

20 THE COURT: There are a number, like a South Carolina
21 statute, a California statute, I believe various state
22 statutes.

23 MR. MARK: Your Honor, I mean, we laid it out there.
24 We can probably talk with defense counsel a little bit on that
25 issue. They're all basically substantially the same state

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1 statute. Obviously, there needs to be reference to a state
2 commercial bribery statute, but given that they're all
3 basically the same, I'm not sure that we need to go down the
4 road of boring the jury with each of the different state
5 statutes. But maybe we can discuss that with defense counsel
6 and see what their position is.

7 THE COURT: How many different states actually did you
8 provide?

9 MR. MARK: There are four different state statutes.

10 THE COURT: I take it they relate to the schools that
11 we have been actively talking about in this trial?

12 MR. MARK: That's correct. They relate to schools --
13 so there were three coaches -- Lamont Evans, Emanuel "Book"
14 Richardson, and Tony Bland -- who taught, amongst them, at four
15 different schools in four different states, so those are the
16 particular state statutes that are cited in that count.

17 THE COURT: With respect to the -- I take it someone
18 or another is going to want a missing witness charge?

19 MR. MOORE: Yes, sir.

20 MR. CHANEY: Yes, Judge.

21 THE COURT: At this point I intend to use my standard
22 charge which essentially says that mention has been made of
23 various individuals that were not called, and I instruct you
24 that all of those individuals were as available or not
25 available to either side equally. Is there going to be a

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1 government summary witness?

2 MR. MARK: There's a small potential for that, but
3 it's more likely that the government will probably just present
4 the materials just directly to the jury without a witness, but
5 we'll probably determine that tomorrow, your Honor.

6 THE COURT: So there's no summary chart that you
7 intend to provide?

8 MR. MARK: No, not at this moment, your Honor.

9 THE COURT: Are there any false exculpatory statements
10 that either party is going to be pointing to? Because I have
11 not heard any if that's the case, but I could be wrong.

12 MR. MARK: At this point in time, I don't believe so
13 from the government.

14 THE COURT: OK.

15 MR. MOORE: Your Honor, just if we could go back to
16 the missing witness argument for a moment?

17 THE COURT: Sure.

18 MR. MOORE: We would object to that standard charge
19 because I think the facts here are different. We've subpoenaed
20 witnesses from the FBI. Those witnesses have not been made
21 available to us for us to interview, to make a proffer to your
22 Honor as to what their testimony would be, etc. In addition,
23 we have no ability to -- we have no access to the three
24 defendants who pled guilty.

25 THE COURT: I'm sorry, to the three?

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1 MR. MOORE: The three defendants in this case, the
2 three coaches who entered guilty pleas before your Honor.

3 THE COURT: Yes.

4 MR. MOORE: All three of them entered guilty pleas.
5 The government has the ability, and as I pointed out last week,
6 if you'll recall, the government asked -- your Honor had
7 scheduled a sentencing for at least one of those individuals to
8 take place prior to this trial. You had set a time and date
9 for that. The government, through Mr. Boone, asked your Honor
10 to defer sentencing until after this trial, and so your Honor
11 did. The government could have let that sentencing go forward,
12 immunize that witness, and made him -- and compelled him to
13 testify in this case by taking away his Fifth Amendment rights.
14 And I know that there's a lot of law on the fact that the
15 defense has no such ability to do it, but that sole authority
16 rests with the government, and I know that it rests with the
17 government. I exercised it seven or eight times in my 23 years
18 as a federal prosecutor. It's solely their right to do that.
19 They could have done it. They chose not to.

20 I think that, given all of those facts, I don't think
21 that the charge that these witnesses are equally available to
22 each party holds any water here.

23 (Continued on next page)
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1 THE COURT: Mr. Mark.

2 MR. MARK: Well, first on the FBI agents, as I
3 commented earlier when we were talking about the *Touhy* issues,
4 is that to the extent these witnesses have any admissible
5 evidence, we have noted that we will make them available. So
6 there is no issue of unavailability. It's the matter that they
7 just have no relevant testimony. So that's not a basis for
8 that request.

9 Second, as to a request based on the witnesses who
10 have pled guilty to the exact same crimes of which the
11 defendants are charged with and their supposed desire to have
12 them testify despite, I don't think we're aware of any
13 subpoenas being issued to them, that has no merit. I don't
14 think they cite to a single case for which they say that
15 because they think that we can compel a witness to testify that
16 then that witness is equally available to both sides. Of
17 course, as they know, the immunity order is one that's issued
18 by the Court, not by the government, so it's actually the Court
19 that grants immunity or not.

20 THE COURT: Yes. But I don't do that sua sponte. And
21 I do it with a request from the government.

22 And by the way, Mr. Moore, you did it six or seven
23 times. In 20 years I've not seen it done.

24 MR. MOORE: I did it six or seven times, in unusual
25 circumstances perhaps. I did it very early on and in an odd

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1 case where a cooperating witness decided he no longer wanted to
2 cooperate right before trial. So, and that was the first -- my
3 first go around with it.

4 As your Honor correctly notes, it is -- your Honor has
5 no authority to compel -- to issue an immunity order absent a
6 motion from the government. The government --

7 THE COURT: Or a motion from the defense. I mean I
8 have seen that done as well. But the standard or the -- it's a
9 very high hurdle.

10 MR. MOORE: The case law that I have seen on defense
11 motions -- I've never seen one granted in any proceeding. Now
12 I can't say that I've read each and every one of those cases
13 but I've read a number of them. I've been unable to locate any
14 authority where a district judge has granted a defense request
15 to immunize a witness. It is some what routinely done,
16 depending on the facts, in cases where the government chooses
17 to immunize a witness.

18 I also noted, for purposes of the record, that the
19 government allowed these witnesses to plead to one count,
20 dismissed other counts without requiring their cooperation as a
21 reward for that. I think that that is a factor that applies
22 here.

23 THE COURT: That's consistent with the Department of
24 Justice policy, as I understand it, and the policy of this
25 office. So you're not required or that the office does not

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1 require a defendant to plead to the entire indictment if
2 they're not going to cooperate.

3 MR. MOORE: I understand, but the government retains
4 the ability to do that. I have no bargaining power with those
5 witnesses, if you will, your Honor. They are unavailable to
6 me. Period.

7 With respect to Mr. Mark telling me that he would make
8 these witnesses available to us, these FBI agents. I have
9 asked him to make them available to me tomorrow for an
10 interview so I can then make a proffer to your Honor as to
11 exactly what evidence I would seek to elicit from them.

12 THE COURT: I'm not going to get in the middle of
13 those negotiations. My role here is to determine, if the
14 government asks me to do so, whether or not the proffered
15 evidence would be relevant to any issue in this case.

16 MR. MOORE: I'm just trying to take Mr. Mark up on
17 what I thought was his offer to make them available. He says
18 I'll make them available to you. I'd like him to make them
19 available to me and we'll see where we go.

20 MR. MARK: As he full well knew, I said make him
21 available to testify which is what we were talking about.

22 THE COURT: Let me ask the government this. How far
23 away are we from you resting?

24 MR. MARK: We understand there's probably about --
25 obviously, please correct me if I'm wrong, but from talking

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1 with defense counsel, maybe about three-and-a-half hours of
2 cross of Mr. Sood. There's only a little bit of Mr. Sood's
3 testimony that's left on direct. After that the next witness
4 would be a representative, a senior representative from the
5 University of Southern California. He is in from out of town.
6 He's been here today. He will be here tomorrow. We're hopeful
7 that we can get him off the stand tomorrow so he can go back to
8 L.A. He'll obviously be here to testify if we need to on
9 Wednesday. After that, there is a handful of recordings, text
10 messages, and e-mails that we'll introduce. As we said, we
11 might do it through a summary witness but we might just forego
12 that and just present it directly to the Court. So we do
13 anticipate that we'll be able to rest on Wednesday.

14 THE COURT: OK. Go ahead.

15 MR. MARK: And just one thing. I'm just going to lay
16 a marker down. There was one thing on the jury instructions
17 that I wanted to return to but since I didn't raise it before I
18 don't want to interrupt your Honor's --

19 THE COURT: Go ahead.

20 MR. MARK: Which is just that I know you referenced in
21 connection with the bribery charges, and which is charged sort
22 of a couple of substantive ways through the honest services
23 theory of wire fraud as well as through 666, and your Honor
24 referenced some of the cases that this office has brought in
25 connection with public officials and those public corruption.

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1 You'll note probably in our request to charge we specifically
2 modeled them off the private honor services fraud cases, that
3 there have also been plenty within this district which have a
4 little bit of difference in them because *McDonald* is a public
5 sector honor services case. So we just wanted to note that. I
6 know your Honor was I'm sure quite familiar with that but given
7 your Honor's reference to the *Skelos* and *Silver* case that was
8 the one point, and I think that *McDonald* to the extent that
9 there is any reference from defense about that, the Second
10 Circuit has held doesn't play to the 666 count. So that's not
11 necessary in that charge.

12 THE COURT: OK.

13 MR. MOORE: Your Honor, I can also tell you I also
14 anticipate a Rule 29 motion on obviously all counts but a
15 hopefully fairly strong one on the Travel Act count and we can
16 certainly talk to the government, in case your Honor denies
17 that motion, on a charge. I will tell you that we -- because
18 I'm sure that one of the things your Honor wants to know is are
19 you -- are we going to have a defense. And obviously from the
20 motion that was filed last night that we -- defendant Code
21 intends to call two witnesses for sure. We intend to seek to
22 offer certain calls. I cannot tell you that my client has made
23 any decision yet as to whether he will or will not testify.
24 But I think that it is likely if the government rests on
25 Wednesday that we might get this case to the jury this week

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1 assuming -- but I'm not so sure, that we will get this case to
2 the jury this week if we have the same schedule on Wednesday
3 and Thursday and so I'm just asking your Honor to consider
4 whether we might run a little longer on Wednesday and Thursday
5 with the goal to actually getting it to them on Thursday and
6 letting them begin their deliberations. That is obviously up
7 to the Court. I know that your Honor said that at some point
8 you would talk with the jury and ascertain their preferences.
9 I can tell you I would certainly like to get this case to them
10 this week if that is at all possible.

11 THE COURT: Absolutely. My agreement with the jury is
12 always if you get here on time I will get you out on time and
13 that seems to work. I'm happy to suggest to them that we might
14 get them back to their lives sooner than later if we adjust our
15 workday a little bit. So, for example, I mean I'd like very
16 much -- we'll talk about the length of the summations, but if
17 we can get the summations all in over the course of one day
18 that would be useful. I mean my guess is that the jury charge
19 will probably be an hour-and-a-half or so or hopefully
20 something short of two hours. That eats up a lot of time. I
21 think we'll get them the case this week. I don't know that
22 we'll have a verdict this week. I know that one of the jurors
23 has a Wednesday of next week trip planned. So I'm sort of
24 using that as -- working backwards from there see how much I
25 can push.

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1 I want to work as efficiently and as quickly as we
2 can. And if I have to go back to the jury and fall on the
3 sword and make them work a little longer, I'm happy to do that
4 if I think we can get stuff done. OK.

5 MR. MOORE: I will tell you that we will get your
6 Honor a briefing tonight on the catch-all exception of the
7 hearsay rule issue. I understand the government wants to
8 submit a paper. We'll submit our own. And then I understand
9 that the government is going to respond to our motion
10 concerning the two witnesses. I'm assuming they can go ahead
11 and respond without reading this potential 3500 material.
12 We'll get that information to your Honor as soon as possible.

13 THE COURT: OK.

14 MR. MOORE: In camera.

15 THE COURT: Very well.

16 MR. MOORE: And I assume that to do that I would
17 simply e-mail like make a copy and e-mail it to the Court and
18 chambers.

19 THE COURT: Yes.

20 MR. CHANEY: We could do that.

21 THE COURT: Or just hand up a hard copy. I'll be
22 here.

23 MR. CHANEY: We don't have a hard copy with us, Judge.

24 THE COURT: OK. Whatever is easiest for you guys.

25 MR. MOORE: Yes, sir. Thank you.

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1 THE COURT: OK. Have a good night.

2 MR. HANEY: Thank you, your Honor, you too.

3 THE COURT: I look forward to the e-mails.

4 (Adjourned to April 30, 2019 at 9 a.m.)

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